

1990
SESSION LAWS
OF THE
STATE OF WASHINGTON

REGULAR SESSION
FIFTY-FIRST LEGISLATURE
Convened January 8, 1990. Adjourned March 8, 1990.

1st EXTRAORDINARY SESSION
FIFTY-FIRST LEGISLATURE
Convened March 9, 1990. Adjourned April 1, 1990.

2nd EXTRAORDINARY SESSION
FIFTY-FIRST LEGISLATURE
Convened June 5, 1990. Adjourned June 5, 1990.



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DENNIS W. COOPER
Code Reviser

**WASHINGTON SESSION LAWS
GENERAL INFORMATION**

1. EDITIONS AVAILABLE.

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

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

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

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2. PRINTING STYLE — INDICATION OF NEW OR DELETED MATTER

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

(a) In amendatory sections

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

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

3. PARTIAL VETOES

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

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

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

5. EFFECTIVE DATE OF LAWS

(a) The state Constitution provides that unless otherwise qualified, the laws of any session take effect ninety days after adjournment sine die. The Secretary of State has determined the pertinent date for the Laws of the 1990 regular session to be June 7, 1990 (midnight June 6). The pertinent date for the Laws of 1990 1st Extraordinary Session is July 1, 1990 (midnight June 30th). For effective dates of chapter 1, Laws of 1990 2nd Extraordinary Session, see section 1105 of the Act.

(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 1990 laws may be found at the back of the permanent bound edition.

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CHAPTER 1

[Substitute House Bill No. 2361]
GRAYS HARBOR DREDGING

AN ACT Relating to the expenditure of previously appropriated funds for the dredging of Grays Harbor; amending section 204, chapter 12, Laws of 1989 1st ex. sess. (uncodified); making an appropriation; and declaring an emergency.

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

Sec. 1. Section 204, chapter 12, Laws of 1989 1st ex. sess. (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 ((funds being provided)) for the project. Up to three million five hundred thousand dollars 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 Public Law 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	Appropriation
St Bldg Constr Acct	10,000,000	
<u>Prior Biennia</u>	<u>Future Biennia</u>	<u>Total</u>
		10,000,000

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

Passed the House January 24, 1990.

Passed the Senate January 24, 1990.

Approved by the Governor January 26, 1990.

Filed in Office of Secretary of State January 26, 1990.

CHAPTER 2

[Substitute House Bill No. 2198]

ENERGY EFFICIENT RESIDENTIAL BUILDING STANDARDS

AN ACT Relating to energy efficiency and conservation; amending RCW 19.27A.020 and 19.27.040; adding new sections to chapter 19.27A RCW; adding a new section to chapter 19.27 RCW; adding a new section to chapter 4.24 RCW; adding a new section to chapter 80.28 RCW; adding a new section to chapter 82.16 RCW; creating a new section; repealing RCW 19.27A.010, 19.27A.030, and 19.27A.040; providing effective dates; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that using energy efficiently in housing is one of the lowest cost ways to meet consumer demand for energy; that using energy efficiently helps protect citizens of the state from negative impacts due to changes in energy supply and cost; that using energy efficiently will help mitigate negative environmental impacts of energy use and resource development; and that using energy efficiently will help stretch our present energy resources into the future. The legislature further finds that the electricity surplus in the Northwest is dwindling as the population increases and the economy expands, and that the region will eventually need new sources of electricity generation.

It is declared policy of the state of Washington that energy be used efficiently. It is the intent of this act to establish residential building standards that bring about the common use of energy efficient building methods, and to assure that such methods remain economically feasible and affordable to purchasers of newly constructed housing.

NEW SECTION. Sec. 2. A new section is added to chapter 19.27A RCW to read as follows:

Except as provided in RCW 19.27A.020(7), the Washington state energy code for residential buildings shall be the maximum and minimum energy code for residential buildings in each city, town, and county and shall be enforced by each city, town, and county no later than July 1, 1991. The Washington state energy code for nonresidential buildings shall be the minimum energy code for nonresidential buildings enforced by each city, town, and county.

Sec. 3. Section 3, chapter 76, Laws of 1979 ex. sess. as amended by section 2, chapter 144, Laws of 1985 and RCW 19.27A.020 are each amended to read as follows:

(1) No later than January 1, 1991, the state building code ((advisory)) council shall promulgate rules((, pursuant to chapter 34.04 RCW, for the purpose of adopting a revised)) to be known as the Washington state energy code as part of the state building code. ((The revised code shall be designed to achieve reductions in energy consumption relative to buildings constructed to comply with the state energy code, June 30, 1980 edition, as amended:))

(2) The council shall follow the legislature's ((guidelines)) standards set forth in this section to ((design a revised)) promulgate rules to be known as the Washington state energy code ((which requires)). The Washington state energy code shall be designed to require new buildings to meet a certain level of energy efficiency, but allow((s)) flexibility in building design ((and)), construction, and heating equipment efficiencies within that framework. The Washington state energy code shall be designed to allow space heating equipment efficiency to offset or substitute for building envelope thermal performance.

(3) The ((revised)) Washington state energy code shall take into account regional climatic conditions ((and shall be designed according to the following guidelines)). Climate zone 1 shall include all counties not included in climate zone 2. Climate zone 2 includes: Adams, Chelan, Douglas, Ferry, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, and Whitman counties.

(4) The Washington state energy code for residential buildings shall require:

(a) ((For new electric resistance heated residential buildings, the code shall be designed)) New residential buildings that are space heated with electric resistance heating systems to achieve energy ((savings)) use equivalent to ((savings achieved)) that used in typical buildings constructed with:

(i) Ceilings insulated to a level of R-38((, except)). The code shall contain an exception which permits single rafter or joist vaulted ceilings ((may be)) insulated to a level of R-30 (R value includes insulation only);

(ii) In zone 1, walls insulated to a level of R-19 (~~((total assembly))~~) (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components; in zone 2 walls insulated to a level of R-24 (R value includes insulation only), or constructed with two by six members, R-22 insulation batts, R-3.2 insulated sheathing, and other normal construction assembly components; for the purpose of determining equivalent thermal performance, the wall U-value shall be 0.058 in zone 1 and 0.044 in zone 2;

(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);

(iv) Floors over unheated spaces insulated to a level of (~~(R-19 for areas with six thousand or less annual heating degree days and to a level of R-25 for areas with more than six thousand annual heating degree days)~~) R-30 (R value includes insulation only);

(~~(iv)~~) (v) Slab on grade floors insulated to a level of R-10 at the perimeter;

(vi) Double glazed windows with (~~(tested R)~~) values not (~~(less)~~) more than (~~(1.79 when tested according to the procedures of the American architectural manufacturers association)~~) U-0.4; (~~and~~)

(~~v~~) In areas with more than six thousand annual heating degree days a maximum of seventeen percent of the floor area in glazing, in areas with six thousand or less annual heating degree days a maximum of twenty-one percent of the floor area in glazing)) (vii) In zone 1 the glazing area may be up to twenty-one percent of floor area and in zone 2 the glazing area may be up to seventeen percent of floor area where consideration of the thermal resistance values for other building components and solar heat gains through the glazing result in thermal performance equivalent to that achieved with thermal resistance values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection and glazing area equal to fifteen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area; and

(viii) Exterior doors insulated to a level of R-5; or an exterior wood door with a thermal resistance value of less than R-5 and values for other components determined in accordance with the equivalent thermal performance criteria of (a) of this subsection.

(b) (~~(For)~~) New residential buildings which are space-heated with (~~(other fuels, the code shall be designed)~~) all other forms of space heating to achieve energy (~~(savings)~~) use equivalent to (~~(savings achieved)~~) that used in typical buildings constructed with:

(i) Ceilings insulated to a level of R-30 in zone 1 and R-38 in zone 2 the code shall contain an exception which permits single rafter or joist

vaulted ceilings insulated to a level of R-30 (R value includes insulation only);

(ii) Walls insulated to a level of R-19 (~~((total assembly))~~) (R value includes insulation only), or constructed with two by four members, R-13 insulation batts, R-3.2 insulated sheathing, and other normal assembly components;

(iii) Below grade walls, insulated on the interior side, to a level of R-19 or, if insulated on the exterior side, to a level of R-10 in zone 1 and R-12 in zone 2 (R value includes insulation only);

(iv) Floors over unheated spaces insulated to a level of R-19 in zone 1 and R-30 in zone 2 (R value includes insulation only);

~~((iv))~~ (v) Slab on grade floors insulated to a level of R-10 at the perimeter;

(vi) Heat pumps with a minimum heating season performance factor (HSPF) of 6.8 or with all other energy sources with a minimum annual fuel utilization efficiency (AFUE) of seventy-eight percent;

(vii) Double glazed windows with (~~(tested R)~~) values not (~~(less)~~) more than (~~(1.40 when tested according to the procedures of the American architectural manufacturers association)~~) U-0.65 in zone 1 and U-0.60 in zone 2. The state building code council, in consultation with the state energy office, shall review these U-values, and, if economically justified for consumers, shall amend the Washington state energy code to improve the U-values by December 1, 1993. The amendment shall not take effect until July 1, 1994; and

~~((v)) In areas with more than six thousand annual heating degree days~~ (viii) In zone 1, the maximum (~~(of seventeen)~~) glazing area shall be twenty-one percent of the floor area (~~(in glazing; in areas with six thousand or less annual heating degree days a maximum of twenty-one percent of the floor area in glazing)~~). In zone 2 the maximum glazing area shall be seven-teen percent of the floor area. Throughout the state for the purposes of determining equivalent thermal performance, the maximum glazing area shall be fifteen percent of the floor area.

(c) For (~~(new nonresidential buildings;)~~) log built homes with space heat other than electric resistance, the building code council shall establish equivalent thermal performance standards consistent with the standards and maximum glazing areas of (b) of this subsection.

(d) The state building code council may approve an energy code for pilot projects of residential construction that use innovative energy efficiency technologies intended to result in savings that are greater than those realized in the levels specified in this section.

(5) U-values for glazing shall be determined using the area weighted average of all glazing in the building. U-values for glazing are the tested values for thermal transmittance due to conduction resulting from either the American architectural manufacturers' association (AAMA) 1503.1 test

procedure or the American society for testing materials (ASTM) C236 or C976 test procedures. Testing shall be conducted under established winter horizontal heat flow test conditions using the fifteen miles per hour wind speed perpendicular to the exterior surface of the glazing as specified under AAMA 1503.1 and product sample sizes specified under AAMA 1503.1. The AAMA 1503.1 testing must be conducted by an AAMA certified testing laboratory. The ASTM C236 or C976 testing U-values include any tested values resulting from a future revised AAMA 1503.1 test procedure. Scaled insulation glass, where used, shall conform to ASTM E-774-81 level A or better. The state building code council shall maintain a list of the tested U-values for glazing products available in the state.

(6) The minimum state energy code for new nonresidential buildings shall be ((designed to achieve a ten percent reduction in energy consumption relative to buildings constructed to comply with)) the Washington state energy code, ((June 30, 1980)) 1986 edition, as amended.

((2) In developing the revised code, the council shall consider possible health and respiratory problems caused by insulating buildings so tightly that the rate of air exchange is significantly retarded, thereby concentrating toxic pollutants at unhealthy high levels:

(3) The council shall publish the revision as proposed rules pursuant to chapter 34.04 RCW and provide for the rules to become effective January 1, 1986. All cities, towns, and counties shall enforce the revised state energy code not later than April 1, 1986:))

(7)(a) Except as provided in (b) of this subsection, the Washington state energy code for residential structures shall preempt the residential energy code of each city, town, and county in the state of Washington.

(b) The state energy code for residential structures does not preempt a city, town, or county's energy code for residential structures which exceeds the requirements of the state energy code and which was adopted by the city, town, or county prior to the effective date of this section. Such cities, towns, or counties may not subsequently amend their energy code for residential structures to exceed the requirements adopted prior to the effective date of this section.

(8) The state building code council shall consult with the state energy office as provided in RCW 34.05.310 prior to publication of proposed rules. The state energy office shall review the proposed rules for consistency with the guidelines adopted in subsection (4) of this section. The director of the state energy office shall recommend to the state building code council any changes necessary to conform the proposed rules to the requirements of this section.

(9) The state building code council shall conduct a study of county and city enforcement of energy codes in the state. In conducting the study, the council shall conduct public hearings at designated council meetings to seek

input from interested individuals and organizations, and to the extent possible, hold these meetings in conjunction with adopting rules under this section. The study shall include recommendations as to how code enforcement may be improved. The findings of the study shall be submitted in a report to the legislature no later than January 1, 1991.

(10) If any electric utility providing electric service to customers in the state of Washington purchases at least one percent of its firm energy load from a federal agency, pursuant to section 5.(b)(1) of the pacific northwest electric power planning and conservation act (P.L. 96-501), and such utility is unable to obtain from that agency at least fifty percent of the funds for payments required by section 4 of this act, the amendments to this section by this 1990 act shall be null and void, and the 1986 state energy code shall be in effect, except that a city, town, or county may enforce a local energy code with more stringent energy requirements adopted prior to the effective date of this section. This subsection shall expire June 30, 1995.

NEW SECTION. Sec. 4. A new section is added to chapter 19.27A RCW to read as follows:

(1) Electric utilities shall make payments to the owner at the time of construction of a newly constructed residential building with electric resistance space heat built in compliance with the requirements of the Washington state energy code adopted pursuant to RCW 19.27A.020 or a residential energy code in effect pursuant to RCW 19.27A.020(7). All or a portion of the funds for payments may be accepted from federal agencies or other sources. Payments are required for residential buildings on which construction has begun on or after July 1, 1991, and prior to July 1, 1995. Payments in an amount equal to a fixed sum of at least nine hundred dollars per single family residence are required for such buildings so constructed which are single family residences having two thousand square feet or less of finished floor area. Payments in an amount equal to a fixed sum of at least three hundred ninety dollars per multifamily residential unit, are required for such buildings so constructed which are multifamily residential units. For purposes of this section, a zero lot line home and each unit in a duplex and each attached housing unit in a planned unit development shall each be considered a single family residence.

(2) Electric utilities which provide electrical service in jurisdictions in which the local government has adopted an energy code not preempted by RCW 19.27A.020(7)(b) shall make payments as provided in subsection (1) of this section for residential buildings on which construction has begun on or after the effective date of this section and prior to July 1, 1991.

(3) Nothing in this section shall prohibit an electric utility from providing incentives in excess of the payments required by this section or from providing additional incentives for energy efficiency measures in excess of those required under RCW 19.27A.020.

(4) This section is null and void if any electric utility providing electric service to its customers in the state of Washington purchases at least one percent of its firm energy load from a federal agency, pursuant to section 5.(b)(1) of the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501), and if such electric utility is unable to obtain from the agency at least fifty percent of the funds to make the payments required by this section. This subsection shall expire June 30, 1995.

(5) The utilities and transportation commission shall provide an appropriate regulatory mechanism which allows a utility regulated by the commission to recover expenses incurred by the utility in making payments under this section.

(6) Subsections (1) through (3) of this section shall expire July 1, 1996.

NEW SECTION. Sec. 5. A new section is added to chapter 19.27A RCW to read as follows:

The state building code council shall maintain the state energy code for residential structures in a status which is consistent with the state's interest as set forth in section 1 of this act. In maintaining the Washington state energy code for residential structures, beginning in 1996 the council shall review the Washington state energy code every three years. After January 1, 1996, by rule adopted pursuant to chapter 34.05 RCW, the council may amend any provisions of the Washington state energy code to increase the energy efficiency of newly constructed residential buildings. Decisions to amend the Washington state energy code for residential structures shall be made prior to December 1 of any year and shall not take effect before the end of the regular legislative session in the next year.

NEW SECTION. Sec. 6. A new section is added to chapter 19.27A RCW to read as follows:

There is hereby created in the state treasury the energy code training account. The Washington state energy office shall administer expenditures from this account for the purpose of providing training for the inspection and training for the enforcement by local governments of the Washington state energy code in effect pursuant to RCW 19.27A.020. The revenues into this account shall derive from assessments by the state energy office on all investor-owned and publicly owned gas and electric utilities in the state of Washington in proportion to the number of housing starts served by a utility in 1989, based on an amount of one hundred fifty dollars per energy code inspection or enforcement official that is within the service area of the utility. Assessments may be made between January 1, 1991, and July 1, 1991. Federal funds available to qualifying utilities for code inspection retraining shall be used before obtaining funds from utilities under this section. Additional funds may be deposited in the account from federal agencies or other

sources. All or a portion of the funds for the cost of local government inspection and enforcement may be accepted from federal agencies or other sources.

NEW SECTION. Sec. 7. A new section is added to chapter 19.27 RCW to read as follows:

(1)(a) Not later than January 1, 1991, the state building code council, in consultation with the state energy office, shall establish interim requirements for the maintenance of indoor air quality in newly constructed residential buildings. In establishing the interim requirements, the council shall take into consideration differences in heating fuels and heating system types. These requirements shall be in effect July 1, 1991, through June 30, 1993.

(b) The interim requirements for new electrically space heated residential buildings shall include ventilation standards which provide for mechanical ventilation in areas of the residence where water vapor or cooking odors are produced. The ventilation shall be exhausted to the outside of the structure. The ventilation standards shall further provide for the capacity to supply outside air to each bedroom and the main living area through dedicated supply air inlet locations in walls, or in an equivalent manner. At least one exhaust fan in the home shall be controlled by a dehumidistat or clock timer to ensure that sufficient whole house ventilation is regularly provided as needed.

(c)(i) For new single family residences with electric space heating systems, zero lot line homes, each unit in a duplex, and each attached housing unit in a planned unit development, the ventilation standards shall include fifty cubic feet per minute of effective installed ventilation capacity in each bathroom and one hundred cubic feet per minute of effective installed ventilation capacity in each kitchen.

(ii) For other new residential units with electric space heating systems the ventilation standards may be satisfied by the installation of two exhaust fans with a combined effective installed ventilation capacity of two hundred cubic feet per minute.

(iii) Effective installed ventilation capacity means the capability to deliver the specified ventilation rates for the actual design of the ventilation system. Natural ventilation and infiltration shall not be considered acceptable substitutes for mechanical ventilation.

(d) For new residential buildings that are space heated with other than electric space heating systems, the interim standards shall be designed to result in indoor air quality equivalent to that achieved with the interim ventilation standards for electric space heated homes.

~~{e} The interim requirements for all newly constructed residential buildings shall include standards for indoor air quality pollutant source control, including the following requirements: All structural panel components of the residence shall comply with appropriate standards for the~~

emission of formaldehyde; the back-drafting of combustion by-products from combustion appliances shall be minimized through the use of dampers, vents, outside combustion air sources, or other appropriate technologies; and, in areas of the state where monitored data indicate action is necessary to inhibit indoor radon gas concentrations from exceeding appropriate health standards, entry of radon gas into homes shall be minimized through appropriate foundation construction measures.

(2) No later than January 1, 1993, the state building code council, in consultation with the state energy office, shall establish final requirements for the maintenance of indoor air quality in newly constructed residences to be in effect beginning July 1, 1993. For new electrically space heated residential buildings, these requirements shall maintain indoor air quality equivalent to that provided by the mechanical ventilation and indoor air pollutant source control requirements included in the February 7, 1989, Bonneville power administration record of decision for the environmental impact statement on new energy efficient homes programs (DOE/EIS-0127F) built with electric space heating. In residential units other than single family, zero lot line, duplexes, and attached housing units in planned unit developments, ventilation requirements may be satisfied by the installation of two exhaust fans with a combined effective installed ventilation capacity of two hundred cubic feet per minute. For new residential buildings that are space heated with other than electric space heating systems, the standards shall be designed to result in indoor air quality equivalent to that achieved with the ventilation and source control standards for electric space heated homes. In establishing the final requirements, the council shall take into consideration differences in heating fuels and heating system types.

NEW SECTION. Sec. 8. A new section is added to chapter 4.24 RCW to read as follows:

It is a defense in a civil action brought for damages for injury caused by indoor air pollutants in a residential structure on which construction was begun on or after July 1, 1991, that the builder or design professional complied in good faith, without negligence or misconduct, with:

- (1) Building product safety standards, including labeling;
- (2) Restrictions on the use of building materials known or believed to contain substances that contribute to indoor air pollution; and
- (3) The ventilation requirements adopted under section 7 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 80.28 RCW to read as follows:

(1) The commission shall adopt a policy allowing an incentive rate of return on investment (a) for payments made under section 4 of this act and (b) for programs that improve the efficiency of energy end use if priority is given to senior citizens and low-income citizens in the course of carrying out such programs. The incentive rate of return on investments set forth in

this subsection is established by adding an increment of two percent to the rate of return on common equity permitted on the company's other investments.

(2) The commission shall consider and may adopt a policy allowing an incentive rate of return on investment in additional programs to improve the efficiency of energy end use or other incentive policies to encourage utility investment in such programs.

(3) The commission shall consider and may adopt other policies to protect a company from a reduction of short-term earnings that may be a direct result of utility programs to increase the efficiency of energy use. These policies may include allowing a periodic rate adjustment for investments in end use efficiency or allowing changes in price structure designed to produce additional new revenue.

(4) The commission may adopt a policy allowing the recovery of a utility's expenses incurred under section 6 of this act.

NEW SECTION. Sec. 10. A new section is added to chapter 82.16 RCW to read as follows:

(1) In computing tax under this chapter there shall be deducted from the gross income:

(a) Payments made under section 4 of this act; and

(b) Those amounts expended on additional programs that improve the efficiency of energy end use if priority is given to senior citizens and low-income citizens in the course of carrying out such programs.

(2) The department, after consultation with the utilities and transportation commission in the case of investor-owned utilities and the governing bodies of locally regulated utilities, shall determine the eligibility of individual programs for deductions under this section.

(3) Until July 1, 1992, utilities may deduct from the amount of tax paid under this chapter fifty percent of the payments made under section 6 of this act, excluding any federal funds that are passed through to a utility for the purpose of retraining local code officials.

(4) This section shall expire January 1, 1996.

Sec. 11. Section 4, chapter 96, Laws of 1974 ex. sess. as last amended by section 8, chapter 360, Laws of 1985 and RCW 19.27.040 are each amended to read as follows:

The governing body of each county or city is authorized to amend the state building code as it applies within the jurisdiction of the county or city. The minimum performance standards of the codes and the objectives enumerated in RCW 19.27.020 shall not be diminished by any county or city amendments. ~~((Amendments to RCW 19.27A.010 shall not result in structures that exceed the overall structural heat loss characteristics that would have resulted from conforming to RCW 19.27A.010.))~~

Nothing in this chapter shall authorize any modifications of the requirements of chapter 70.92 RCW.

NEW SECTION. Sec. 12. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 96, Laws of 1974 ex. sess., section 8, chapter 110, Laws of 1975 1st ex. sess., section 11, chapter 14, Laws of 1977 ex. sess., section 1, chapter 76, Laws of 1979 ex. sess., section 1, chapter 8, Laws of 1980, section 1, chapter 101, Laws of 1984, section 1, chapter 144, Laws of 1985 and RCW 19.27A.010;

(2) Section 3, chapter 144, Laws of 1985, section 1, chapter 204, Laws of 1988 and RCW 19.27A.030; and

(3) Section 4, chapter 144, Laws of 1985, section 2, chapter 204, Laws of 1988 and RCW 19.27A.040.

NEW SECTION. Sec. 13. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 14. Sections 1 through 4, 6, 7, 9, and 10 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 March 1, 1990. Sections 11 and 12 of this act shall take effect January 1, 1991. Section 8 of this act shall take effect July 1, 1991.

Passed the House January 31, 1990.

Passed the Senate January 29, 1990.

Approved by the Governor February 5, 1990.

Filed in Office of Secretary of State February 5, 1990.

CHAPTER 3

[Second Substitute Senate Bill No. 6259] COMMUNITY PROTECTION ACT

AN ACT Relating to criminal offenders; amending RCW 13.40.205, 10.77.163, 10.77.165, 10.77.210, 71.05.325, 71.05.390, 71.05.420, 71.05.440, 71.05.670, 9.94A.155, 13.50.050, 9.95.140, 10.97.030, 10.97.050, 70.48.100, 43.43.765, 9.92.151, 9.94A.150, 70.48.210, 13.40.020, 13.40.160, 13.40.110, 13.40.210, 43.43.745, 7.68.060, 7.68.070, 7.68.080, 7.68.085, 9.94A.390, 13.40.150, 9.94A.350, 9.94A.120, 9.94A.360, 9.95.009, 9A.44.050, 9A.44.083, 9A.44.076, and 9A.88.010; reenacting and amending RCW 9.94A.030, 9.94A.310, 9.94A.320, 9.94A.400, 18.130.040, 43.43.830, 43.43.832, 43.43.834, and 43.43.838; adding a new section to chapter 4.24 RCW; adding new sections to chapter 9.94A RCW; adding a new section to chapter 9.95 RCW; adding a new section to chapter 74.13 RCW; adding new sections to chapter 9A.44 RCW; adding a new section to chapter 10.01 RCW; adding new sections to chapter 10.77 RCW; adding new sections to chapter 13.40 RCW; adding a new section to chapter 43.43 RCW; adding a new section to chapter 46.20 RCW; adding a new section to chapter 70.48 RCW; adding new sections to chapter 71.05 RCW; adding a new section to chapter 71.06 RCW; adding new sections to chapter 72.09 RCW; adding a new chapter to Title 18 RCW; adding a new chapter to Title 71 RCW; adding a new section to chapter 43.06 RCW; adding a new chapter to Title 43 RCW; adding a new section to chapter 26.44 RCW; creating new sections; prescribing penalties; providing effective dates; and declaring an emergency.

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

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PART I

COMMUNITY NOTIFICATION

NEW SECTION. Sec. 101. A new section is added to chapter 13.40 RCW to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than ten days before discharge, parole, or any other authorized leave or release, or before transfer to a community residential facility, the secretary shall send written notice of the discharge, parole, authorized leave or release, or transfer of a juvenile found to have committed a violent offense or a sex offense, to the following:

(i) The chief of police of the city, if any, in which the juvenile will reside; and

(ii) The sheriff of the county in which the juvenile will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific juvenile:

(i) The victim of the offense for which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the juvenile in any court proceedings involving the offense; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the juvenile. The notice to the chief of police or the sheriff shall include the identity of the juvenile, the residence where the juvenile will reside, the identity of the person, if any, responsible for supervising the juvenile, and the time period of any authorized leave.

(2)(a) If a juvenile found to have committed a violent offense or a sex offense escapes from a facility of the department, the secretary shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the juvenile resided immediately before the juvenile's arrest. If previously requested, the secretary shall also notify the witnesses and the victim of the offense which the juvenile was found to have committed or the victim's next of kin if the crime was a homicide. If the juvenile is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(b) The secretary may authorize a leave, for a juvenile found to have committed a violent or sex offense, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. Prior to the commencement of an emergency or medical leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will be during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave. If previously requested, the department shall also notify the witnesses and victim of the offense which the juvenile was found to have committed or the victim's next of kin if the offense was a homicide.

In case of an emergency or medical leave the secretary may waive all or any portion of the requirements for leaves pursuant to RCW 13.40.205 (2)(a), (3), (4), and (5).

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The secretary shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

- (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- (c) "Next of kin" means a person's spouse, parents, siblings, and children.

NEW SECTION. Sec. 102. A new section is added to chapter 13.40 RCW to read as follows:

In addition to any other information required to be released under this chapter, the department is authorized, pursuant to section 117 of this act, to release relevant information that is necessary to protect the public concerning juveniles adjudicated of sex offenses.

Sec. 103. Section 10, chapter 191, Laws of 1983 and RCW 13.40.205 are each amended to read as follows:

(1) A juvenile sentenced to a term of confinement to be served under the supervision of the department shall not be released from the physical custody of the department prior to the release date established under RCW 13.40.210 except as otherwise provided in this section.

(2) A juvenile serving a term of confinement under the supervision of the department may be released on authorized leave from the physical custody of the department only if consistent with public safety and if:

(a) Sixty percent of the minimum term of confinement has been served; and

(b) The purpose of the leave is to enable the juvenile:

(i) To visit the juvenile's family for the purpose of strengthening or preserving family relationships;

(ii) To make plans for parole or release which require the juvenile's personal appearance in the community and which will facilitate the juvenile's reintegration into the community; or

(iii) To make plans for a residential placement out of the juvenile's home which requires the juvenile's personal appearance in the community.

(3) No authorized leave may exceed seven consecutive days. The total of all pre-minimum term authorized leaves granted to a juvenile prior to final discharge from confinement shall not exceed thirty days.

(4) Prior to authorizing a leave, the secretary shall require a written leave plan, which shall detail the purpose of the leave and how it is to be achieved, the address at which the juvenile shall reside, the identity of the person responsible for supervising the juvenile during the leave, and a statement by such person acknowledging familiarity with the leave plan and agreeing to supervise the juvenile and to notify the secretary immediately if the juvenile violates any terms or conditions of the leave. The leave plan shall include such terms and conditions as the secretary deems appropriate and shall be signed by the juvenile.

(5) Upon authorizing a leave, the secretary shall issue to the juvenile an authorized leave order which shall contain the name of the juvenile, the fact that the juvenile is on leave from a designated facility, the time period

of the leave, and the identity of an appropriate official of the department to contact when necessary. The authorized leave order shall be carried by the juvenile at all times while on leave.

(6) Prior to the commencement of any authorized leave, the secretary shall give notice of the leave to the appropriate law enforcement agency in the jurisdiction in which the juvenile will reside during the leave period. The notice shall include the identity of the juvenile, the time period of the leave, the residence of the juvenile during the leave, and the identity of the person responsible for supervising the juvenile during the leave.

(7) The secretary may authorize a leave, which shall not exceed forty-eight hours plus travel time, to meet an emergency situation such as a death or critical illness of a member of the juvenile's family. The secretary may authorize a leave, which shall not exceed the period of time medically necessary, to obtain medical care not available in a juvenile facility maintained by the department. In cases of emergency or medical leave the secretary may waive all or any portions of subsections (2)(a), (3), (4), (5), and (6) of this section.

(8) If requested by the juvenile's victim or the victim's immediate family (~~(prior to confinement)~~), the secretary shall give notice of any leave to the victim or the victim's immediate family.

(9) A juvenile who violates any condition of an authorized leave plan may be taken into custody and returned to the department in the same manner as an adult in identical circumstances.

(10) Notwithstanding the provisions of this section, a juvenile placed in minimum security status may participate in work, educational, community service, or treatment programs in the community up to twelve hours a day if approved by the secretary. Such a release shall not be deemed a leave of absence.

(11) Subsections (6), (7), and (8) of this section do not apply to juveniles covered by section 101 of this 1990 act.

NEW SECTION. Sec. 104. A new section is added to chapter 10.77 RCW to read as follows:

(1)(a) At the earliest possible date, and in no event later than ten days before conditional release, final discharge, authorized furlough pursuant to RCW 10.77.163, or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of the conditional release, final discharge, authorized furlough, or transfer of a person who has been found not guilty of a sex or violent offense by reason of insanity and who is now in the custody of the department pursuant to this chapter, to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under this chapter:

(i) The victim of the crime for which the person was committed or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney.

Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(c) In addition to the notice requirements of (a) and (b) of this subsection, the superintendent shall comply with RCW 10.77.163.

(2) If a person who has been found not guilty of a sex or violent offense by reason of insanity and who is committed under this chapter escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim, if any, of the crime for which the person was committed or the victim's next of kin if the crime was a homicide. The superintendent shall also notify appropriate persons pursuant to RCW 10.77.165. If the person is recaptured, the secretary shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(4) The department shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Sex offense" means a sex offense under RCW 9.94A.030;

(c) "Next of kin" means a person's spouse, parents, siblings, and children;

(d) "Authorized furlough" means a furlough granted after compliance with RCW 10.77.163.

NEW SECTION. Sec. 105. A new section is added to chapter 10.77 RCW to read as follows:

In addition to any other information required to be released under this chapter, the department is authorized, pursuant to section 117 of this act, to

release relevant information necessary to protect the public concerning a person who was acquitted of a sex offense as defined in RCW 9.94A.030 due to insanity and was subsequently committed to the department pursuant to this chapter.

Sec. 106. Section 2, chapter 122, Laws of 1983 as amended by section 9, chapter 420, Laws of 1989 and RCW 10.77.163 are each amended to read as follows:

(1) Before a person committed under this chapter is permitted temporarily to leave a treatment facility for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.

(2) In addition to the notice required by subsection (1) of this section, the superintendent of each state institution designated for the custody, care, and treatment of persons committed under this chapter shall notify appropriate law enforcement agencies through the state patrol communications network of the furloughs of persons committed under RCW 10.77.090 or 10.77.110. Notification shall be made at least forty-eight hours before the furlough, and shall include the name of the person, the place to which the person has permission to go, and the dates and times during which the person will be on furlough.

(3) Upon receiving notice that a person committed under this chapter is being temporarily released under subsection (1) of this section, the prosecuting attorney may seek a temporary restraining order to prevent the release of the person on the grounds that the person is dangerous to self or others.

(4) The notice provisions of this section are in addition to those provided in section 104 of this 1990 act.

Sec. 107. Section 3, chapter 122, Laws of 1983 as amended by section 10, chapter 420, Laws of 1989 and RCW 10.77.165 are each amended to read as follows:

In the event of an escape by a person committed under this chapter from a state institution or the disappearance of such a person on conditional release, the superintendent shall notify as appropriate, local law enforcement officers, other governmental agencies, the person's relatives, and any other appropriate persons about information necessary for the public safety or to assist in the apprehension of the person. The notice provisions of this section are in addition to those provided in section 104 of this 1990 act.

Sec. 108. Section 21, chapter 117, Laws of 1973 1st ex. sess. as last amended by section 12, chapter 420, Laws of 1989 and RCW 10.77.210 are each amended to read as follows:

Any person involuntarily detained, hospitalized, or committed pursuant to the provisions of this chapter shall have the right to adequate care and individualized treatment. The person who has custody of the patient or is in charge of treatment shall keep records detailing all medical, expert, and professional care and treatment received by a committed person, and shall keep copies of all reports of periodic examinations of the patient that have been filed with the secretary pursuant to this chapter. Except as provided in sections 104 and 117 of this 1990 act regarding the release of information concerning insane offenders who are acquitted of sex offenses and subsequently committed pursuant to this chapter, all records and reports made pursuant to this chapter, shall be made available only upon request, to the committed person, to his or her attorney, to his or her personal physician, to the prosecuting attorney, to the court, to the protection and advocacy agency, or other expert or professional persons who, upon proper showing, demonstrates a need for access to such records. All records and reports made pursuant to this chapter shall also be made available, upon request, to the department of corrections or the indeterminate sentence review board if the person was on parole or probation at the time of detention, hospitalization, or commitment or the person is subsequently convicted for the crime for which he or she was detained, hospitalized, or committed pursuant to this chapter.

NEW SECTION. Sec. 109. A new section is added to chapter 71.05 RCW to read as follows:

(1)(a) Except as provided in subsection (2) of this section, at the earliest possible date, and in no event later than ten days before conditional release, final discharge, authorized leave under RCW 71.05.325(2), or transfer to a less-restrictive facility than a state mental hospital, the superintendent shall send written notice of conditional release, final discharge, authorized leave, or transfer of a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex or violent offense pursuant to RCW 10.77.090(3) to the following:

(i) The chief of police of the city, if any, in which the person will reside; and

(ii) The sheriff of the county in which the person will reside.

(b) The same notice as required by (a) of this subsection shall be sent to the following, if such notice has been requested in writing about a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex or violent offense pursuant to RCW 10.77.090(3):

(i) The victim of the sex or violent crime that was dismissed pursuant to RCW 10.77.090(3) preceding commitment under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin if the crime was a homicide;

(ii) Any witnesses who testified against the person in any court proceedings; and

(iii) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the person committed under this chapter.

(2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex or violent offense pursuant to RCW 10.77.090(3) escapes, the superintendent shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the person resided immediately before the person's arrest. If previously requested, the superintendent shall also notify the witnesses and the victim of the sex or violent crime that was dismissed pursuant to RCW 10.77.090(3) preceding commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next of kin if the crime was a homicide. In addition, the secretary shall also notify appropriate parties pursuant to RCW 71.05.410. If the person is recaptured, the superintendent shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

(3) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parent or legal guardian of the child.

(4) The superintendent shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

(5) For purposes of this section the following terms have the following meanings:

- (a) "Violent offense" means a violent offense under RCW 9.94A.030;
- (b) "Sex offense" means a sex offense under RCW 9.94A.030;
- (c) "Next of kin" means a person's spouse, parents, siblings, and children.

NEW SECTION. Sec. 110. A new section is added to chapter 71.05 RCW to read as follows:

In addition to any other information required to be released under this chapter, the department is authorized, pursuant to section 117 of this act, to release relevant information that is necessary to protect the public, concerning a specific person committed under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex offense as defined in RCW 9.94A.030.

Sec. 111. Section 2, chapter 67, Laws of 1986 as amended by section 1, chapter 401, Laws of 1989 and RCW 71.05.325 are each amended to read as follows:

(1) Before a person committed under grounds set forth in RCW 71.05.280(3) is released from involuntary treatment because a new petition for involuntary treatment has not been filed under RCW 71.05.320(2), the superintendent, professional person, or designated mental health professional responsible for the decision whether to file a new petition shall in writing notify the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision not to file a new petition for involuntary treatment. Notice shall be provided at least thirty days before the period of commitment expires.

(2) (a) Before a person committed under grounds set forth in RCW 71.05.280(3) is permitted temporarily to leave a treatment facility pursuant to RCW 71.05.270 for any period of time without constant accompaniment by facility staff, the superintendent, professional person in charge of a treatment facility, or his or her professional designee shall in writing notify the prosecuting attorney of any county to which the person is to be released and the prosecuting attorney of the county in which the criminal charges against the committed person were dismissed, of the decision conditionally to release the person. The notice shall be provided at least thirty days before the anticipated release and shall describe the conditions under which the release is to occur.

(b) The provisions of RCW 71.05.330(2) apply to proposed temporary releases, and either or both prosecuting attorneys receiving notice under this subsection may petition the court under RCW 71.05.330(2).

(3) Nothing in this section shall be construed to authorize detention of a person unless a valid order of commitment is in effect.

(4) The notice provisions of this section are in addition to those provided in section 109 of this 1990 act.

Sec. 112. Section 44, chapter 142, Laws of 1973 1st ex. sess. as last amended by section 8, chapter 67, Laws of 1986 and RCW 71.05.390 are each amended to read as follows:

The fact of admission and all information and records compiled, obtained, or maintained in the course of providing services to either voluntary or involuntary recipients of services at public or private agencies shall be confidential.

Information and records may be disclosed only:

(1) In communications between qualified professional persons to meet the requirements of this chapter, in the provision of services or appropriate referrals, or in the course of guardianship proceedings. The consent of the patient, or his guardian, must be obtained before information or records may be disclosed by a professional person employed by a facility to a professional person, not employed by the facility, who does not have the medical responsibility for the patient's care or who is not a designated county mental health professional or who is not involved in providing services under the community mental health services act, chapter 71.24 RCW.

(2) When the communications regard the special needs of a patient and the necessary circumstances giving rise to such needs and the disclosure is made by a facility providing outpatient services to the operator of a care facility in which the patient resides.

(3) When the person receiving services, or his guardian, designates persons to whom information or records may be released, or if the person is a minor, when his parents make such designation.

(4) To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he may be entitled.

(5) For program evaluation and/or research: PROVIDED, That the secretary of social and health services adopts rules for the conduct of such evaluation and/or research. Such rules shall include, but need not be limited to, the requirement that all evaluators and researchers must sign an oath of confidentiality substantially as follows:

"As a condition of conducting evaluation or research concerning persons who have received services from (fill in the facility, agency, or person) I,, agree not to divulge, publish, or otherwise make known to unauthorized persons or the public any information obtained in the course of such evaluation or research regarding persons who have received services such that the person who received such services is identifiable.

I recognize that unauthorized release of confidential information may subject me to civil liability under the provisions of state law.

/s/

(6) To the courts as necessary to the administration of this chapter.

(7) To law enforcement officers, public health officers, or personnel of the department of corrections or the indeterminate sentence review board (~~(of prison terms and paroles)~~) for persons who are the subject of the records and who are committed to the custody of the department of corrections or indeterminate sentence review board (~~(of prison terms and paroles)~~) which information or records are necessary to carry out the responsibilities of their office(~~(-PROVIDED, That)~~). Except for dissemination of information released pursuant to sections 109 and 117 of this 1990 act, regarding persons committed under this chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A-.030, the extent of information that may be released is limited as follows:

(a) Only the fact, place, and date of involuntary admission, the fact and date of discharge, and the last known address shall be disclosed upon request; and

(b) The law enforcement and public health officers or personnel of the department of corrections or indeterminate sentence review board (~~(of prison terms and paroles)~~) shall be obligated to keep such information confidential in accordance with this chapter; and

(c) Additional information shall be disclosed only after giving notice to said person and his counsel and upon a showing of clear, cogent and convincing evidence that such information is necessary and that appropriate safeguards for strict confidentiality are and will be maintained: PROVIDED HOWEVER, That in the event the said person has escaped from custody, said notice prior to disclosure is not necessary and that the facility from which the person escaped shall include an evaluation as to whether the person is of danger to persons or property and has a propensity toward violence.

(8) To the attorney of the detained person.

(9) To the prosecuting attorney as necessary to carry out the responsibilities of the office under RCW 71.05.330(2) and 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access to records regarding the committed person's treatment and prognosis, medication, behavior problems, and other records relevant to the issue of whether treatment less restrictive than inpatient treatment is in the best interest of the committed person or others. Information shall be disclosed only after giving notice to the committed person and the person's counsel.

(10) To appropriate law enforcement agencies and to a person, when the identity of the person is known to the public or private agency, whose health and safety has been threatened, or who is known to have been repeatedly harassed, by the patient. The person may designate a representative to receive the disclosure. The disclosure shall be made by the professional person in charge of the public or private agency or his or her designee and shall include the dates of admission, discharge, authorized or unauthorized absence from the agency's facility, and only such other information that is pertinent to the threat or harassment. The decision to disclose or not shall not result in civil liability for the agency or its employees so long as the decision was reached in good faith and without gross negligence.

(11) To the persons designated in section 109 of this 1990 act for the purposes described in that section.

(12) Civil liability and immunity for the release of information about a particular person who is committed to the department under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as defined in RCW 9.94A.030, is governed by section 117 of this 1990 act.

The fact of admission, as well as all records, files, evidence, findings, or orders made, prepared, collected, or maintained pursuant to this chapter shall not be admissible as evidence in any legal proceeding outside this chapter without the written consent of the person who was the subject of the

proceeding except in a subsequent criminal prosecution of a person committed pursuant to RCW 71.05.280(3) or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter 10.77 RCW due to incompetency to stand trial or in a civil commitment proceeding pursuant to sections 1001 through 1012 of this 1990 act. The records and files maintained in any court proceeding pursuant to this chapter shall be confidential and available subsequent to such proceedings only to the person who was the subject of the proceeding or his attorney. In addition, the court may order the subsequent release or use of such records or files only upon good cause shown if the court finds that appropriate safeguards for strict confidentiality are and will be maintained.

Sec. 113. Section 47, chapter 142, Laws of 1973 1st ex. sess. and RCW 71.05.420 are each amended to read as follows:

Except as provided in section 109 of this 1990 act, when any disclosure of information or records is made as authorized by RCW 71.05.390 through 71.05.410, the physician in charge of the patient or the professional person in charge of the facility shall promptly cause to be entered into the patient's medical record the date and circumstances under which said disclosure was made, the names and relationships to the patient, if any, of the persons or agencies to whom such disclosure was made, and the information disclosed.

Sec. 114. Section 49, chapter 142, Laws of 1973 1st ex. sess. as amended by section 28, chapter 145, Laws of 1974 ex. sess. and RCW 71.05.440 are each amended to read as follows:

Except as provided in section 117 of this 1990 act, any person may bring an action against an individual who has willfully released confidential information or records concerning him or her in violation of the provisions of this chapter, for the greater of the following amounts:

(1) One thousand dollars; or

(2) Three times the amount of actual damages sustained, if any. It shall not be a prerequisite to recovery under this section that the plaintiff shall have suffered or be threatened with special, as contrasted with general, damages.

Any person may bring an action to enjoin the release of confidential information or records concerning him or her or his or her ward, in violation of the provisions of this chapter, and may in the same action seek damages as provided in this section.

The court may award to the plaintiff, should he or she prevail in an action authorized by this section, reasonable attorney fees in addition to those otherwise provided by law.

Sec. 115. Section 17, chapter 205, Laws of 1989 and RCW 71.05.670 are each amended to read as follows:

Except as provided in section 117 of this 1990 act, any person, including the state or any political subdivision of the state, violating RCW 71.05-.610 through 71.05.690 shall be subject to the provisions of RCW 71.05.440.

NEW SECTION. Sec. 116. The legislature finds that sex offenders pose a high risk of engaging in sex offenses even after being released from incarceration or commitment and that protection of the public from sex offenders is a paramount governmental interest. The legislature further finds that the penal and mental health components of our justice system are largely hidden from public view and that lack of information from either may result in failure of both systems to meet this paramount concern of public safety. Overly restrictive confidentiality and liability laws governing the release of information about sexual predators have reduced willingness to release information that could be appropriately released under the public disclosure laws, and have increased risks to public safety. Persons found to have committed a sex offense have a reduced expectation of privacy because of the public's interest in public safety and in the effective operation of government. Release of information about sexual predators to public agencies and under limited circumstances, the general public, will further the governmental interests of public safety and public scrutiny of the criminal and mental health systems so long as the information released is rationally related to the furtherance of those goals.

Therefore, this state's policy as expressed in section 117 of this act is to require the exchange of relevant information about sexual predators among public agencies and officials and to authorize the release of necessary and relevant information about sexual predators to members of the general public.

NEW SECTION. Sec. 117. A new section is added to chapter 4.24 RCW to read as follows:

(1) Public agencies are authorized to release relevant and necessary information regarding sex offenders to the public when the release of the information is necessary for public protection.

(2) An elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary decision to release relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The authorization and immunity in this section applies to information regarding: (a) A person convicted of, or juvenile found to have committed, a sex offense as defined by RCW 9.94A.030; (b) a person found not guilty of a sex offense by reason of insanity under chapter 10.77 RCW; (c) a person found incompetent to stand trial for a sex offense and subsequently committed under chapter 71.05 or 71.34 RCW; (d) a person committed as a sexual psychopath under chapter 71.06 RCW; or (e) a person committed as a sexually violent predator under sections 1001 through 1012

of this act. The immunity provided under this section applies to the release of relevant information to other employees or officials or to the general public.

(3) Except as otherwise provided by statute, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information as provided in subsection (2) of this section.

(4) Nothing in this section implies that information regarding persons designated in subsection (2) of this section is confidential except as otherwise provided by statute.

NEW SECTION. Sec. 118. An offender's pending appeal, petition for personal restraint, or writ of habeas corpus shall not restrict the agency's, official's, or employee's authority to release relevant information concerning an offender's prior criminal history. However, the agency must release the latest dispositions of the charges as provided in chapter 10.97 RCW, the Washington state criminal records privacy act.

NEW SECTION. Sec. 119. The governor shall cause a study of federal and state statutes and regulations governing the confidentiality and disclosure of information about dangerous offenders in the criminal justice, juvenile justice, and mental health systems. The governor shall report to the legislature no later than November 1, 1990 with recommendations for a comprehensive policy approach to confidentiality and dissemination of information about offenders who pose a danger to the public and recommendations regarding the immunity and liability of public agencies, officials, and employees when releasing or failing to release that information.

NEW SECTION. Sec. 120. A new section is added to chapter 71.06 RCW to read as follows:

In addition to any other information required to be released under this chapter, the department is authorized, pursuant to section 117 of this act, to release relevant information that is necessary to protect the public, concerning a specific sexual psychopath committed under this chapter.

Sec. 121. Section 1, chapter 346, Laws of 1985 as amended by section 1, chapter 30, Laws of 1989 and RCW 9.94A.155 are each amended to read as follows:

(1) At the earliest possible date, and in no event later than ten days before release except in the event of escape or emergency furloughs as defined in RCW 72.66.010, the department of corrections shall send written notice of parole, community placement, work release placement, furlough, or escape(~~(, if such notice has been requested in writing)~~) about a specific inmate convicted of a violent offense or a sex offense as defined by RCW 9.94A.030, to all of the following:

(a) The chief of police of the city, if any, in which the inmate will reside(~~(, if known,)~~) or in which placement will be made in a work release program; and

(b) The sheriff of the county in which the inmate will reside(~~(, if known,)~~) or in which placement will be made in a work release program(~~(,)~~);

~~((c))~~ (2) The same notice as required by subsection (1) of this section shall be sent to the following if such notice has been requested in writing about a specific inmate convicted of a violent offense or a sex offense as defined by RCW 9.94A.030:

(a) The victim(~~(, if any,)~~) of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide;

~~((d))~~ (b) Any witnesses who testified against the inmate in any court proceedings involving the violent offense; and

~~((e))~~ (c) Any person specified in writing by the prosecuting attorney. Information regarding victims, next of kin, or witnesses requesting the notice, information regarding any other person specified in writing by the prosecuting attorney to receive the notice, and the notice are confidential and shall not be available to the inmate.

~~((2))~~ (3) If an inmate convicted of a violent offense or a sex offense as defined by RCW 9.94A.030 escapes from a correctional facility, the department of corrections shall immediately notify, by the most reasonable and expedient means available, the chief of police of the city and the sheriff of the county in which the inmate resided immediately before the inmate's arrest and conviction. If previously requested, the department shall also notify the witnesses and the victim(~~(, if any,)~~) of the crime for which the inmate was convicted or the victim's next of kin if the crime was a homicide. If the inmate is recaptured, the department shall send notice to the persons designated in this subsection as soon as possible but in no event later than two working days after the department learns of such recapture.

~~((3))~~ (4) If the victim, the victim's next of kin, or any witness is under the age of sixteen, the notice required by this section shall be sent to the parents or legal guardian of the child.

(5) The department of corrections shall send the notices required by this chapter to the last address provided to the department by the requesting party. The requesting party shall furnish the department with a current address.

~~((4))~~ (6) For purposes of this section the following terms have the following meanings:

(a) "Violent offense" means a violent offense under RCW 9.94A.030;

(b) "Next of kin" means a person's spouse, parents, siblings and children.

~~((5))~~ (7) Nothing in this section shall impose any liability upon a chief of police of a city or sheriff of a county for failing to request in writing a notice as provided in subsection (1) of this section.

NEW SECTION. Sec. 122. A new section is added to chapter 9.94A RCW to read as follows:

Three months before the anticipated release from total confinement of a person convicted of a sex offense as defined in RCW 9.94A.030 that was committed between June 30, 1984, and July 1, 1988, the department shall notify in writing the prosecuting attorney of the county where the person was convicted. The department shall inform the prosecutor of the following:

(1) The person's name, identifying factors, anticipated future residence, and offense history;

(2) A brief narrative describing the person's conduct during confinement and any treatment received; and

(3) Whether the department recommends that a civil commitment petition be filed under section 1003 of this act.

The department, its employees, and officials shall be immune from liability for any good-faith conduct under this section.

NEW SECTION. Sec. 123. A new section is added to chapter 9.94A RCW to read as follows:

The department, its employees, and officials, shall be immune from liability for release of information regarding sex offenders that complies with section 117 of this act.

NEW SECTION. Sec. 124. A new section is added to chapter 9.94A RCW to read as follows:

In addition to any other information required to be released under other provisions of this chapter, the department may, pursuant to section 117 of this act, release information concerning convicted sex offenders confined to the department of corrections.

Sec. 125. Section 9, chapter 155, Laws of 1979 as last amended by section 8, chapter 450, Laws of 1987 and RCW 13.50.050 are each amended to read as follows:

(1) This section governs records relating to the commission of juvenile offenses, including records relating to diversions.

(2) The official juvenile court file of any alleged or proven juvenile offender shall be open to public inspection, unless sealed pursuant to subsection (11) of this section.

(3) All records other than the official juvenile court file are confidential and may be released only as provided in this section ~~(and)~~,¹ RCW 13.50.010, and sections 101 and 117 of this 1990 act.

(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 section 117 of this 1990 act, 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.

Sec. 126. Section 15, chapter 133, Laws of 1955 and RCW 9.95.140 are each amended to read as follows:

The board of prison terms and paroles shall cause a complete record to be kept of every prisoner released on parole. Such records shall be organized in accordance with the most modern methods of filing and indexing so that there will be always immediately available complete information about each such prisoner. The board may make rules as to the privacy of such records and their use by others than the board and its staff. In determining the rules regarding dissemination of information regarding convicted sex offenders under the board's jurisdiction, the board shall consider the provisions of sections 116 and 117 of this 1990 act and shall be immune from liability for the release of information concerning sex offenders as provided in section 117 of this 1990 act.

The superintendent of the penitentiary and the reformatory and all officers and employees thereof and all other public officials shall at all times cooperate with the board and furnish to the board, its officers, and employees such information as may be necessary to enable it to perform its functions, and such superintendents and other employees shall at all times give the members of the board, its officers, and employees free access to all prisoners confined in the penal institutions of the state.

NEW SECTION. Sec. 127. A new section is added to chapter 9.95 RCW to read as follows:

In addition to any other information required to be released under this chapter, the indeterminate sentence review board may, pursuant to section 117 of this act, release information concerning inmates under the jurisdiction of the indeterminate sentence review board who are convicted of sex offenses as defined in RCW 9.94A.030.

Sec. 128. Section 3, chapter 314, Laws of 1977 ex. sess. as last amended by section 1, chapter 36, Laws of 1979 ex. sess. and RCW 10.97-.030 are each amended to read as follows:

For purposes of this chapter, the definitions of terms in this section shall apply.

(1) "Criminal history record information" means information contained in records collected by criminal justice agencies, other than courts, on individuals, (~~other than juveniles;~~) consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, including sentences, correctional supervision, and release. The term includes information contained in records maintained by or obtained from criminal justice agencies, other than courts, which records provide individual identification of a person together with any portion of the individual's record of involvement in the criminal justice system as an alleged or convicted offender, except:

(a) Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons;

(b) Original records of entry maintained by criminal justice agencies to the extent that such records are compiled and maintained chronologically and are accessible only on a chronological basis;

(c) Court indices and records of public judicial proceedings, court decisions, and opinions, and information disclosed during public judicial proceedings;

(d) Records of traffic violations which are not punishable by a maximum term of imprisonment of more than ninety days;

(e) Records of any traffic offenses as maintained by the department of licensing for the purpose of regulating the issuance, suspension, revocation, or renewal of drivers' or other operators' licenses and pursuant to RCW 46.52.130 as now existing or hereafter amended;

(f) Records of any aviation violations or offenses as maintained by the department of transportation for the purpose of regulating pilots or other aviation operators, and pursuant to RCW 47.68.330 as now existing or hereafter amended;

(g) Announcements of executive clemency.

(2) "Nonconviction data" consists of all criminal history record information relating to an incident which has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending. There shall be a rebuttable presumption that proceedings are no longer actively pending if more than one year has elapsed since arrest, citation, or service of warrant and no disposition has been entered.

(3) "Conviction record" means criminal history record information relating to an incident which has led to a conviction or other disposition adverse to the subject.

(4) "Conviction or other disposition adverse to the subject" means any disposition of charges, except a decision not to prosecute, a dismissal, or acquittal except when the acquittal is due to a finding of not guilty by reason of insanity pursuant to chapter 10.77 RCW and the person was committed pursuant to chapter 10.77 RCW; PROVIDED, HOWEVER, That a dismissal entered after a period of probation, suspension, or deferral of sentence shall be considered a disposition adverse to the subject.

(5) "Criminal justice agency" means: (a) A court; or (b) a government agency which performs the administration of criminal justice pursuant to a statute or executive order and which allocates a substantial part of its annual budget to the administration of criminal justice.

(6) "The administration of criminal justice" means performance of any of the following activities: Detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The term also includes criminal identification activities and the collection, storage, dissemination of criminal history record information, and the compensation of victims of crime.

(7) "Disposition" means the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system.

(8) "Dissemination" means disclosing criminal history record information or disclosing the absence of criminal history record information to any person or agency outside the agency possessing the information, subject to the following exceptions:

(a) When criminal justice agencies jointly participate in the maintenance of a single record keeping department as an alternative to maintaining separate records, the furnishing of information by that department to personnel of any participating agency is not a dissemination;

(b) The furnishing of information by any criminal justice agency to another for the purpose of processing a matter through the criminal justice system, such as a police department providing information to a prosecutor for use in preparing a charge, is not a dissemination;

(c) The reporting of an event to a record keeping agency for the purpose of maintaining the record is not a dissemination.

Sec. 129. Section 5, chapter 314, Laws of 1977 ex. sess. and RCW 10-97.050 are each amended to read as follows:

(1) Conviction records may be disseminated without restriction.

(2) Any criminal history record information which pertains to an incident for which a person is currently being processed by the criminal justice system, including the entire period of correctional supervision extending through final discharge from parole, when applicable, may be disseminated without restriction.

(3) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to another criminal justice agency for any purpose associated with the administration of criminal justice, or in connection with the employment of the subject of the record by a criminal justice or juvenile justice agency. A criminal justice agency may respond to any inquiry from another criminal justice agency without any obligation to ascertain the purpose for which the information is to be used by the agency making the inquiry.

(4) Criminal history record information which includes nonconviction data may be disseminated by a criminal justice agency to implement a statute, ordinance, executive order, or a court rule, decision, or order which expressly refers to records of arrest, charges, or allegations of criminal conduct or other nonconviction data and authorizes or directs that it be available or accessible for a specific purpose.

(5) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies pursuant to a contract with a criminal justice agency to provide services related to the administration of criminal justice. Such contract must specifically authorize access to criminal history record information, but need not specifically state that access to nonconviction data is included. The agreement must limit the use of

the criminal history record information to stated purposes and insure the confidentiality and security of the information consistent with state law and any applicable federal statutes and regulations.

(6) Criminal history record information which includes nonconviction data may be disseminated to individuals and agencies for the express purpose of research, evaluative, or statistical activities pursuant to an agreement with a criminal justice agency. Such agreement must authorize the access to nonconviction data, limit the use of that information which identifies specific individuals to research, evaluative, or statistical purposes, and contain provisions giving notice to the person or organization to which the records are disseminated that the use of information obtained therefrom and further dissemination of such information are subject to the provisions of this chapter and applicable federal statutes and regulations, which shall be cited with express reference to the penalties provided for a violation thereof.

(7) Every criminal justice agency that maintains and disseminates criminal history record information must maintain information pertaining to every dissemination of criminal history record information except a dissemination to the effect that the agency has no record concerning an individual. Information pertaining to disseminations shall include:

- (a) An indication of to whom (agency or person) criminal history record information was disseminated;
- (b) The date on which the information was disseminated;
- (c) The individual to whom the information relates; and
- (d) A brief description of the information disseminated.

The information pertaining to dissemination required to be maintained shall be retained for a period of not less than one year.

(8) In addition to the other provisions in this section allowing dissemination of criminal history record information, section 117 of this 1990 act governs dissemination of information concerning offenders who commit sex offenses as defined by RCW 9.94A.030. Criminal justice agencies, their employees, and officials shall be immune from civil liability for dissemination on criminal history record information concerning sex offenders as provided in section 117 of this 1990 act.

Sec. 130. Section 10, chapter 316, Laws of 1977 ex. sess. and RCW 70.48.100 are each amended to read as follows:

(1) A department of corrections or chief law enforcement officer responsible for the operation of a jail shall maintain a jail register, open to the public, into which shall be entered in a timely basis:

- (a) The name of each person confined in the jail with the hour, date and cause of the confinement; and
- (b) The hour, date and manner of each person's discharge.

(2) Except as provided in subsection (3) of this section the records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies as defined in RCW 43.43.705; or

- (a) For use in inspections made pursuant to RCW 70.48.070;
- (b) In jail certification proceedings;
- (c) For use in court proceedings upon the written order of the court in which the proceedings are conducted; or
- (d) Upon the written permission of the person.

(3) (a) Law enforcement may use booking photographs of a person arrested or confined in a local or state penal institution to assist them in conducting investigations of crimes.

(b) Photographs and information concerning a person convicted of a sex offense as defined in RCW 9.94A.030 may be disseminated as provided in sections 401 through 409 and 117 of this 1990 act.

Sec. 131. Section 14, chapter 152, Laws of 1972 ex. sess. as amended by section 108, chapter 3, Laws of 1983 and RCW 43.43.765 are each amended to read as follows:

The principal officers of the jails, correctional institutions, state mental institutions and all places of detention to which a person is committed under chapter 10.77 RCW ((~~or~~)), chapter 71.06 RCW, or sections 1001 through 1012 of this 1990 act for treatment or under a sentence of imprisonment for any crime as provided for in RCW 43.43.735 shall within seventy-two hours, report to the section, any interinstitutional transfer, release or change of release status of any person held in custody pursuant to the rules promulgated by the chief.

The principal officers of all state mental institutions to which a person has been committed under chapter 10.77 RCW ((~~or~~)), chapter 71.06 RCW, or sections 1001 through 1012 of this 1990 act shall keep a record of the photographs, description, fingerprints, and other identification data as may be obtainable from the appropriate criminal justice agency.

PART II EARNED EARLY RELEASE

Sec. 201. Section 1, chapter 248, Laws of 1989 and RCW 9.92.151 are each amended to read as follows:

The sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by earned release credits in accordance with procedures that shall be developed and promulgated by the ((~~facility~~)) correctional agency having jurisdiction. The earned early release time shall be for good behavior and good performance as determined by the ((~~facility~~)) correctional agency having jurisdiction. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned

early release time may not exceed fifteen percent of the sentence. In no other case may the aggregate earned early release time exceed one-third of the total sentence.

Sec. 202. Section 2, chapter 248, Laws of 1989 and RCW 9.94A.150 are each amended to read as follows:

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

(1) ~~Except ((for persons convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW)) as otherwise provided for in subsection (2) of this section, the term((s)) of the sentence of an offender committed to a ((county jail facility, or a)) correctional facility operated by the department, may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the correctional ((facility)) agency having jurisdiction in which the offender is confined. The earned early release time shall be for good behavior and good performance, as determined by the correctional ((facility)) agency having jurisdiction. The correctional agency shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. Any program established pursuant to this section shall allow an offender to earn early release credits for pre-sentence incarceration. If an offender is transferred from a county jail to the department of corrections, the county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned early release time. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case shall the aggregate earned early release time exceed one-third of the total sentence((~~Persons convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW may become eligible for community custody in lieu of earned early release time in accordance with the program developed by the department))~~);~~

(2) ~~((When))~~ A person convicted of a sex offense or an offense categorized as a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the

time of commission, or any felony offense under chapter 69.50 or 69.52 RCW ((is)) may become eligible, in accordance with a program developed by the department, for transfer to community custody status in lieu of earned early release time pursuant to subsection (1) of this section~~((as computed by the department of corrections, the offender shall be transferred to community custody.))~~;

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

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

(5) No more than the final six months of the sentence may be served in partial confinement designed to aid the offender in finding work and reestablishing him or herself in the community;

(6) The governor may pardon any offender;

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

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

Sec. 203. Section 17, chapter 232, Laws of 1979 ex. sess. as last amended by section 3, chapter 248, Laws of 1989 and RCW 70.48.210 are each amended to read as follows:

(1) All cities and counties are authorized to establish and maintain farms, camps, and work release programs and facilities, as well as special detention facilities. The facilities shall meet the requirements of chapter 70.48 RCW and any rules adopted thereunder.

(2) Farms and camps may be established either inside or outside the territorial limits of a city or county. A sentence of confinement in a city or county jail may include placement in a farm or camp. Unless directed otherwise by court order, the chief law enforcement officer or department of corrections, may transfer the prisoner to a farm or camp. The sentencing court, chief law enforcement officer, or department of corrections may not transfer to a farm or camp a greater number of prisoners than can be furnished with constructive employment and can be reasonably accommodated.

(3) The city or county may establish a city or county work release program and housing facilities for the prisoners in the program. In such regard, factors such as employment conditions and the condition of jail facilities should be considered. When a work release program is established the following provisions apply:

(a) A person convicted of a felony and placed in a city or county jail is eligible for the work release program. A person sentenced to a city or county jail is eligible for the work release program. The program may be used as a condition of probation for a criminal offense. Good conduct is a condition of participation in the program.

(b) The court may permit a person who is currently, regularly employed to continue his or her employment. The chief law enforcement officer or department of corrections shall make all necessary arrangements if possible. The court may authorize the person to seek suitable employment and may authorize the chief law enforcement officer or department of corrections to make reasonable efforts to find suitable employment for the person. A person participating in the work release program may not work in an establishment where there is a labor dispute.

(c) The work release prisoner shall be confined in a work release facility or jail unless authorized to be absent from the facility for program-related purposes, unless the court directs otherwise.

(d) Each work release prisoner's earnings may be collected by the chief law enforcement officer or a designee. The chief law enforcement officer or a designee may deduct from the earnings moneys for the payments for the prisoner's board, personal expenses inside and outside the jail, a share of the administrative expenses of this section, court-ordered victim compensation, and court-ordered restitution. Support payments for the prisoner's dependents, if any, shall be made as directed by the court. With the prisoner's consent, the remaining funds may be used to pay the prisoner's preexisting debts. Any remaining balance shall be returned to the prisoner.

(e) The prisoner's sentence may be reduced by earned early release time in accordance with procedures that shall be developed and promulgated by the work release facility. The earned early release time shall be for good behavior and good performance as determined by the facility. The facility shall not credit the offender with earned early release credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate earned early release time may not exceed fifteen percent of the sentence. In no other case may the aggregate earned early release time exceed one-third of the total sentence.

(f) If the work release prisoner violates the conditions of custody or employment, the prisoner shall be returned to the sentencing court. The sentencing court may require the prisoner to spend the remainder of the sentence in actual confinement and may cancel any earned reduction of the sentence.

(4) A special detention facility may be operated by a noncorrectional agency or by noncorrectional personnel by contract with the governing unit. The employees shall meet the standards of training and education established by the criminal justice training commission as authorized by RCW

43.101.080. The special detention facility may use combinations of features including, but not limited to, low-security or honor prisoner status, work farm, work release, community review, prisoner facility maintenance and food preparation, training programs, or alcohol or drug rehabilitation programs. Special detention facilities may establish a reasonable fee schedule to cover the cost of facility housing and programs. The schedule shall be on a sliding basis that reflects the person's ability to pay.

PART III
JUVENILE JUSTICE ACT AMENDMENTS

Sec. 301. Section 56, chapter 291, Laws of 1977 ex. sess. as last amended by section 1, chapter 407, Laws of 1989 and RCW 13.40.020 are each amended to read as follows:

For the purposes of this chapter:

(1) "Serious offender" means a person fifteen years of age or older who has committed an offense which if committed by an adult would be:

- (a) A class A felony, or an attempt to commit a class A felony;
- (b) Manslaughter in the first degree (~~or rape in the second degree~~);

or

(c) Assault in the second degree, extortion in the first degree, child molestation in the (~~first or~~) second degree, (~~rape of a child in the second degree~~;) kidnapping in the second degree, robbery in the second degree, 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;

(3) "Community supervision" means an order of disposition by the court of an adjudicated youth. A community supervision order for a single offense may be for a period of up to two years for a sex offense as defined by RCW 9.94A.030 and up to one year for other offenses and include one or more of the following:

- (a) A fine, not to exceed one hundred dollars;
- (b) Community service not to exceed one hundred fifty hours of service;
- (c) Attendance of information classes;
- (d) Counseling; or
- (e) Such other services to the extent funds are available for such services, conditions, or limitations as the court may require which may not include confinement;

(4) "Confinement" means physical custody by the department of social and health services in a facility operated by or pursuant to a contract with the state, or physical custody in a facility operated by or pursuant to a contract with any county. Confinement of less than thirty-one days imposed as part of a disposition or modification order may be served consecutively or intermittently, in the discretion of the court;

(5) "Court", when used without further qualification, means the juvenile court judge(s) or commissioner(s);

(6) "Criminal history" includes all criminal complaints against the respondent for which, prior to the commission of a current offense:

(a) The allegations were found correct by a court. If a respondent is convicted of two or more charges arising out of the same course of conduct, only the highest charge from among these shall count as an offense for the purposes of this chapter; or

(b) The criminal complaint was diverted by a prosecutor pursuant to the provisions of this chapter on agreement of the respondent and after an advisement to the respondent that the criminal complaint would be considered as part of the respondent's criminal history;

(7) "Department" means the department of social and health services;

(8) "Diversion unit" means any probation counselor who enters into a diversion agreement with an alleged youthful offender or any other person or entity with whom the juvenile court administrator has contracted to arrange and supervise such agreements pursuant to RCW 13.04.040, as now or hereafter amended, or any person or entity specially funded by the legislature to arrange and supervise diversion agreements in accordance with the requirements of this chapter;

(9) "Institution" means a juvenile facility established pursuant to chapters 72.05 and 72.16 through 72.20 RCW;

(10) "Juvenile," "youth," and "child" mean any individual who is under the chronological age of eighteen years and who has not been previously transferred to adult court;

(11) "Juvenile offender" means any juvenile who has been found by the juvenile court to have committed an offense, including a person eighteen years of age or older over whom jurisdiction has been extended under RCW 13.40.300;

(12) "Manifest injustice" means a disposition that would either impose an excessive penalty on the juvenile or would impose a serious, and clear danger to society in light of the purposes of this chapter;

(13) "Middle offender" means a person who has committed an offense and who is neither a minor or first offender nor a serious offender;

(14) "Minor or first offender" means a person sixteen years of age or younger whose current offense(s) and criminal history fall entirely within one of the following categories:

(a) Four misdemeanors;

- (b) Two misdemeanors and one gross misdemeanor;
- (c) One misdemeanor and two gross misdemeanors;
- (d) Three gross misdemeanors;
- (e) One class C felony except manslaughter in the second degree and one misdemeanor or gross misdemeanor;
- (f) One class B felony except: Any felony which constitutes an attempt to commit a class A felony; manslaughter in the first degree; (~~rape in the second degree;~~) assault in the second degree; extortion in the first degree; indecent liberties; kidnapping in the second degree; robbery in the second degree; burglary in the second degree; (~~rape of a child in the second degree~~) residential burglary; vehicular homicide; (~~child molestation in the first degree;~~) or arson in the second degree.

For purposes of this definition, current violations shall be counted as misdemeanors;

(15) "Offense" means an act designated a violation or a crime if committed by an adult under the law of this state, under any ordinance of any city or county of this state, under any federal law, or under the law of another state if the act occurred in that state;

(16) "Respondent" means a juvenile who is alleged or proven to have committed an offense;

(17) "Restitution" means financial reimbursement by the offender to the victim, and shall be limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical treatment for physical injury to persons, (~~and~~) lost wages resulting from physical injury, 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;

(18) "Secretary" means the secretary of the department of social and health services;

(19) "Services" mean services which provide alternatives to incarceration for those juveniles who have pleaded or been adjudicated guilty of an offense or have signed a diversion agreement pursuant to this chapter;

(20) "Sex offense" means an offense defined as a sex offense in RCW 9.94A.030;

(21) "Sexual motivation" means the respondent committed the offense for the purpose of his or her sexual gratification;

(22) "Foster care" means temporary physical care in a foster family home or group care facility as defined in RCW 74.15.020 and licensed by the department, or other legally authorized care;

~~((21))~~ (23) "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. 302. Section 70, chapter 291, Laws of 1977 ex. sess. as last amended by section 4, chapter 407, Laws of 1989 and RCW 13.40.160 are each amended to read as follows:

(1) When the respondent is found to be a serious offender, the court shall commit the offender to the department for the standard range of disposition for the offense, as indicated in option A of schedule D-3, RCW 13.40.0357 except as provided in subsection (5) 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(~~((5))~~)(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 subsection (5) 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(~~((5))~~)(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.

~~((Any))~~ Except for disposition ((other than)) 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 subsection (5) 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 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.

(c) Only if the court concludes, and enters reasons for its conclusions, that disposition as provided in subsection (4) (a) or (b) of this section would effectuate a manifest injustice, the court shall sentence the juvenile to a maximum term, and the provisions of RCW 13.40.030(~~((5))~~)(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 9.94A.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.

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 sections 801 through 809 of this 1990 act.

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. 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) Whenever a juvenile offender is entitled to credit for time spent in detention prior to a dispositional order, the dispositional order shall specifically state the number of days of credit for time served.

~~((6) In its dispositional order)~~ (7) 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.

~~((7))~~ (8) 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. 303. Section 65, chapter 291, Laws of 1977 ex. sess. as last amended by section 18, chapter 145, Laws of 1988 and RCW 13.40.110 are each amended to read as follows:

(1) The prosecutor, respondent, or the court on its own motion may, before a hearing on the information on its merits, file a motion requesting the court to transfer the respondent for adult criminal prosecution and the matter shall be set for a hearing on the question of declining jurisdiction.

Unless waived by the court, the parties, and their counsel, a decline hearing shall be held where:

(a) The respondent is fifteen, sixteen, or seventeen years of age and the information alleges a class A felony or an attempt, solicitation, or conspiracy to commit a class A felony; or

(b) The respondent is seventeen years of age and the information alleges assault in the second degree, extortion in the first degree, indecent liberties, ~~((rape of a child in the second degree;))~~ child molestation in the ~~((first or))~~ second degree, kidnapping in the second degree, ~~((rape in the second degree;))~~ or robbery in the second degree.

(2) The court after a decline hearing may order the case transferred for adult criminal prosecution upon a finding that the declination would be in the best interest of the juvenile or the public. The court shall consider the relevant reports, facts, opinions, and arguments presented by the parties and their counsel.

(3) When the respondent is transferred for criminal prosecution or retained for prosecution in juvenile court, the court shall set forth in writing its finding which shall be supported by relevant facts and opinions produced at the hearing.

Sec. 304. Section 75, chapter 291, Laws of 1977 ex. sess. as last amended by section 4, chapter 505, Laws of 1987 and RCW 13.40.210 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 shall be within the prescribed range to which a juvenile has been committed. 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 if any such early releases have occurred during that year as a result of excessive in-residence population. In no event shall a serious offender, as defined in RCW 13.40.020(1) be granted release under the provisions of this subsection.

(3) Following the juvenile's release pursuant to 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. ((Such)) A parole program ((shall be)) 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 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; (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) 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) Continued supervision under the same conditions previously imposed; (b) intensified supervision with increased reporting requirements; (c) additional conditions of supervision authorized by this chapter; ((and)) (d) except as provided in (c) 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) 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.

(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 such 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.

NEW SECTION. Sec. 305. A new section is added to chapter 74.13 RCW to read as follows:

(1) For the purposes of funds appropriated for the treatment of at-risk juvenile sex offenders, "at-risk juvenile sex offenders" means those juveniles in the care and custody of the state who:

- (a) Have been abused; and
- (b) Have committed a sexually aggressive or other violent act that is sexual in nature; or
- (c) Cannot be detained under the juvenile justice system due to being under age twelve and incompetent to stand trial for acts that could be prosecuted as sex offenses as defined by RCW 9.94A.030 if the juvenile was over twelve years of age, or competent to stand trial if under twelve years of age.

(2) In expending these funds, the department of social and health services shall establish in each region a case review committee to review all cases for which the funds are used. In determining whether to use these funds in a particular case, the committee shall consider:

- (a) The age of the juvenile;
- (b) The extent and type of abuse to which the juvenile has been subjected;
- (c) The juvenile's past conduct;
- (d) The benefits that can be expected from the treatment; and
- (e) The cost of the treatment.

PART IV REGISTRATION OF SEX OFFENDERS

NEW SECTION. Sec. 401. The legislature finds that sex offenders often pose a high risk of reoffense, and that law enforcement's efforts to protect their communities, conduct investigations, and quickly apprehend offenders who commit sex offenses, are impaired by the lack of information available to law enforcement agencies about convicted sex offenders who live within the law enforcement agency's jurisdiction. Therefore, this state's

policy is to assist local law enforcement agencies' efforts to protect their communities by regulating sex offenders by requiring sex offenders to register with local law enforcement agencies as provided in section 402 of this act.

NEW SECTION. Sec. 402. A new section is added to chapter 9A.44 RCW to read as follows:

(1) Any adult or juvenile residing in this state who has been found to have committed or has been convicted of any sex offense shall register with the county sheriff for the county of the person's residence.

(2) The person shall, within forty-five days of establishing residence in Washington, or if a current resident within thirty days of release from confinement, if any, provide the county sheriff with the following information: (a) Name; (b) address; (c) place of employment; (d) crime for which convicted; (e) date and place of conviction; (f) aliases used; and (g) social security number.

(3) If any person required to register pursuant to this section changes his or her residence address within the same county, the person must send written notice of the change of address to the county sheriff within ten days of establishing the new residence. If any person required to register pursuant to this section moves to a new county, the person must register with the county sheriff in the new county within ten days of establishing the new residence. The person must also send written notice within ten days of the change of address in the new county to the county sheriff with whom the person last registered.

(4) The county sheriff shall obtain a photograph of the individual and shall obtain a copy of the individual's fingerprints.

(5) "Sex offense" for the purpose of sections 402 through 406 of this act means any offense defined as a sex offense by RCW 9.94A.030:

(a) Committed on or after the effective date of this section; or

(b) Committed prior to the effective date of this section if the person, as a result of the offense, is under the custody or active supervision of the department of corrections or the department of social and health services on or after the effective date of this section.

(6) A person who knowingly fails to register as required by this section is guilty of a class C felony if the crime for which the individual was convicted was a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony. If the crime was other than a class A felony or a federal or out-of-state conviction for an offense that under the laws of this state would be a class A felony, violation of this section is a gross misdemeanor.

NEW SECTION. Sec. 403. A new section is added to chapter 43.43 RCW to read as follows:

The county sheriff shall forward the information and fingerprints obtained pursuant to section 402 of this act to the Washington state patrol

within five working days. The state patrol shall maintain a central registry of sex offenders required to register under section 402 of this act and shall adopt rules consistent with chapters 10.97, 10.98, and 43.43 RCW as are necessary to carry out the purposes of sections 402 through 408 of this act. The Washington state patrol shall reimburse the counties for the costs of processing the sex offender registration, including taking the fingerprints and the photographs.

NEW SECTION. Sec. 404. A new section is added to chapter 10.01 RCW to read as follows:

The court shall provide written notification to any defendant charged with a sex offense of the registration requirements of section 402 of this act. Such notice shall be included on any guilty plea forms and judgment and sentence forms provided to the defendant.

NEW SECTION. Sec. 405. A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall provide written notification to an inmate convicted of a sex offense of the registration requirements of section 402 of this act at the time of the inmate's release from confinement and shall receive and retain a signed acknowledgement of receipt.

(2) The department shall provide written notification to an individual convicted of a sex offense from another state of the registration requirements of section 402 of this act at the time the department accepts supervision and has legal authority of the individual under the terms and conditions of the interstate compact agreement under RCW 9.95.270.

NEW SECTION. Sec. 406. A new section is added to chapter 70.48 RCW to read as follows:

A person having charge of a jail shall notify in writing any confined person who is in the custody of the jail for a conviction of a sexual offense as defined in RCW 9.94A.030 of the registration requirements of section 402 of this act at the time of the inmate's release from confinement, and shall obtain written acknowledgment of such notification.

NEW SECTION. Sec. 407. A new section is added to chapter 46.20 RCW to read as follows:

The department, at the time a person renews his or her driver's license or identicard, or surrenders a driver's license from another jurisdiction pursuant to RCW 46.20.021 and makes an application for a driver's license or an identicard, shall provide the applicant with written information on the registration requirements of section 402 of this act.

NEW SECTION. Sec. 408. A new section is added to chapter 9A.44 RCW to read as follows:

(1) The duty to register under section 402 of this act shall end:

(a) For a person convicted of a class A felony: Such person may only be relieved of the duty to register under subsection (2) of this section.

(b) For a person convicted of a class B felony: Fifteen years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent fifteen consecutive years in the community without being convicted of any new offenses.

(c) For a person convicted of a class C felony: Ten years after the last date of release from confinement, if any, (including full-time residential treatment) pursuant to the conviction, or entry of the judgment and sentence, if the person has spent ten consecutive years in the community without being convicted of any new offenses.

(2) Any person having a duty to register under section 402 of this act may petition the superior court to be relieved of that duty. The petition shall be made to the court in which the petitioner was convicted of the offense that subjects him or her to the duty to register, or, in the case of convictions in other states, to the court in Thurston county. The prosecuting attorney of the county shall be named and served as the respondent in any such petition. The court shall consider the nature of the registrable offense committed, and the criminal and relevant noncriminal behavior of the petitioner both before and after conviction, and may consider other factors. The court may relieve the petitioner of the duty to register only if the petitioner shows, with clear and convincing evidence, that future registration of the petitioner will not serve the purposes of sections 402 through 408 of this act.

(3) Unless relieved of the duty to register pursuant to this section, a violation of section 402 of this act is an ongoing offense for purposes of the statute of limitations under RCW 9A.04.080.

(4) Nothing in RCW 9.94A.220 relating to discharge of an offender shall be construed as operating to relieve the offender of his or her duty to register pursuant to section 402 of this act.

Sec. 409. Section 10, chapter 152, Laws of 1972 ex. sess. as last amended by section 6, chapter 346, Laws of 1985 and RCW 43.43.745 are each amended to read as follows:

(1) It shall be the duty of the sheriff or director of public safety of every county, of the chief of police of each city or town, or of every chief officer of other law enforcement agencies operating within this state, to record the fingerprints of all persons held in or remanded to their custody when convicted of any crime as provided for in RCW 43.43.735 for which the penalty of imprisonment might be imposed and to disseminate and file such fingerprints in the same manner as those recorded upon arrest pursuant to RCW 43.43.735 and 43.43.740.

(2) Every time the secretary authorizes a furlough as provided for in RCW 72.66.012 the department of corrections shall notify, forty-eight hours prior to the beginning of such furlough, the section that the named prisoner has been granted a furlough, the place to which furloughed, and the dates and times during which the prisoner will be on furlough status. In

the case of an emergency furlough the forty-eight hour time period shall not be required but notification shall be made as promptly as possible and before the prisoner is released on furlough. Upon receipt of furlough information pursuant to the provisions of this subsection the section shall notify the sheriff or director of public safety of the county to which the prisoner is being furloughed, the nearest attachment of the Washington state patrol in the county wherein the furloughed prisoner shall be residing and such other criminal justice agencies as the section may determine should be so notified.

(3) Disposition of the charge for which the arrest was made shall be reported to the section at whatever stage in the proceedings a final disposition occurs by the arresting law enforcement agency, county prosecutor, city attorney, or court having jurisdiction over the offense: PROVIDED, That the chief shall promulgate rules pursuant to chapter 34.05 RCW to carry out the provisions of this subsection.

(4) Whenever a person serving a sentence for a term of confinement in a state correctional facility for convicted felons, pursuant to court commitment, is released on an order of the state indeterminate sentence review board (~~(of prison terms and paroles)~~), or is discharged from custody on expiration of sentence, the department of corrections shall promptly notify the section that the named person has been released or discharged, the place to which such person has been released or discharged, and the conditions of his release or discharge, and shall additionally notify the section of change in residence or conditions of release or discharge of persons on active parole supervision, and shall notify the section when persons are discharged from active parole supervision.

~~((No city, town, county, or local law enforcement authority or other agency thereof may require that a convicted felon entering, sojourning, visiting, in transit, or residing in such city, town, county, or local area report or make himself known as a convicted felon or make application for and/or carry on his person a felon identification card or other registration document.))~~ Local law enforcement agencies may require persons convicted of sex offenses to register pursuant to section 402 of this 1990 act. In addition, nothing ((herein)) in this section shall((, however,)) be construed to prevent any local law enforcement authority from recording the residency and other information concerning any convicted felon or other person convicted of a criminal offense when such information is obtained from a source other than from ((such requirement)) registration pursuant to section 402 of this 1990 act which source may include any officer or other agency or subdivision of the state.

PART V
CRIME VICTIMS' COMPENSATION

Sec. 501. Section 6, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 1, chapter 98, Laws of 1986 and RCW 7.68.060 are each amended to read as follows:

(1) For the purposes of applying for benefits under this chapter, the rights, privileges, responsibilities, duties, limitations and procedures contained in RCW 51.28.020, 51.28.030, 51.28.040 and 51.28.060 as now or hereafter amended shall apply: **PROVIDED**, That no compensation of any kind shall be available under this chapter if:

(a) An application for benefits is not received by the department within one year after the date the criminal act was reported to a local police department or sheriff's office or the date the rights of dependents or beneficiaries accrued; or

(b) The criminal act is not reported by the victim or someone on his or her behalf to a local police department or sheriff's office within ~~((seventy=two hours))~~ twelve months of its occurrence or, if it could not reasonably have been reported within that period, within ~~((seventy=two hours))~~ twelve months of the time when a report could reasonably have been made. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victims.

(2) This section shall apply only to criminal acts reported after December 31, 1985.

(3) Because victims of childhood criminal acts may repress conscious memory of such criminal acts far beyond the age of eighteen, the rights of adult victims of childhood criminal acts shall accrue at the time the victim discovers or reasonably should have discovered the elements of the crime. In making determinations as to reasonable time limits, the department shall give greatest weight to the needs of the victim.

Sec. 502. Section 7, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 5, chapter 5, Laws of 1989 1st ex. sess. and RCW 7.68.070 are each amended to read as follows:

The right to benefits under this chapter and the amount thereof will be governed insofar as is applicable by the provisions contained in chapter 51.32 RCW as now or hereafter amended except as provided in this section:

(1) The provisions contained in RCW 51.32.015, 51.32.030, 51.32.072, 51.32.073, 51.32.180, 51.32.190, and 51.32.200 as now or hereafter amended are not applicable to this chapter.

(2) Each victim injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, or the victim's family or dependents in case of death of the victim, are entitled to benefits in accordance with this chapter, subject to the limitations under RCW

7.68.015. The rights, duties, responsibilities, limitations, and procedures applicable to a worker as contained in RCW 51.32.010 as now or hereafter amended are applicable to this chapter.

(3) The limitations contained in RCW 51.32.020 as now or hereafter amended are applicable to claims under this chapter. In addition thereto, no person or spouse, child, or dependent of such person is entitled to benefits under this chapter when the injury for which benefits are sought, was:

- (a) The result of consent, provocation, or incitement by the victim;
- (b) Sustained while the crime victim was engaged in the attempt to commit, or the commission of, a felony; or
- (c) Sustained while the victim was confined in any county or city jail, federal jail or prison or in any other federal institution, or any state correctional institution maintained and operated by the department of social and health services or the department of corrections, prior to release from lawful custody; or confined or living in any other institution maintained and operated by the department of social and health services or the department of corrections.

(4) The benefits established upon the death of a worker and contained in RCW 51.32.050 as now or hereafter amended shall be the benefits obtainable under this chapter and provisions relating to payment contained in that section shall equally apply under this chapter: PROVIDED, That benefits for burial expenses shall not exceed the maximum cost used by the department of social and health services for the funeral and burial of a deceased indigent person under chapter 74.08 RCW in any claim: PROVIDED FURTHER, That if the criminal act results in the death of a victim who was not gainfully employed at the time of the criminal act, and who was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act;

(a) Benefits payable to an eligible surviving spouse, where there are no children of the victim at the time of the criminal act who have survived the victim or where such spouse has legal custody of all of his or her children, shall be limited to burial expenses and a lump sum payment of seven thousand five hundred dollars without reference to number of children, if any;

(b) Where any such spouse has legal custody of one or more but not all of such children, then such burial expenses shall be paid, and such spouse shall receive a lump sum payment of three thousand seven hundred fifty dollars and any such child or children not in the legal custody of such spouse shall receive a lump sum of three thousand seven hundred fifty dollars to be divided equally among such child or children;

(c) If any such spouse does not have legal custody of any of the children, the burial expenses shall be paid and the spouse shall receive a lump sum payment of up to three thousand seven hundred fifty dollars and any such child or children not in the legal custody of the spouse shall receive a

lump sum payment of up to three thousand seven hundred fifty dollars to be divided equally among the child or children;

(d) If no such spouse survives, then such burial expenses shall be paid, and each surviving child of the victim at the time of the criminal act shall receive a lump sum payment of three thousand seven hundred fifty dollars up to a total of two such children and where there are more than two such children the sum of seven thousand five hundred dollars shall be divided equally among such children.

No other benefits may be paid or payable under these circumstances.

(5) The benefits established in RCW 51.32.060 as now or hereafter amended for permanent total disability proximately caused by the criminal act shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That if a victim becomes permanently and totally disabled as a proximate result of the criminal act and was not gainfully employed at the time of the criminal act, the victim shall receive monthly during the period of the disability the following percentages, where applicable, of the average monthly wage determined as of the date of the criminal act pursuant to RCW 51.08.018 as now or hereafter amended:

(a) If married at the time of the criminal act, twenty-nine percent of the average monthly wage.

(b) If married with one child at the time of the criminal act, thirty-four percent of the average monthly wage.

(c) If married with two children at the time of the criminal act, thirty-eight percent of the average monthly wage.

(d) If married with three children at the time of the criminal act, forty-one percent of the average monthly wage.

(e) If married with four children at the time of the criminal act, forty-four percent of the average monthly wage.

(f) If married with five or more children at the time of the criminal act, forty-seven percent of the average monthly wage.

(g) If unmarried at the time of the criminal act, twenty-five percent of the average monthly wage.

(h) If unmarried with one child at the time of the criminal act, thirty percent of the average monthly wage.

(i) If unmarried with two children at the time of the criminal act, thirty-four percent of the average monthly wage.

(j) If unmarried with three children at the time of the criminal act, thirty-seven percent of the average monthly wage.

(k) If unmarried with four children at the time of the criminal act, forty percent of the average monthly wage.

(l) If unmarried with five or more children at the time of the criminal act, forty-three percent of the average monthly wage.

(6) The benefits established in RCW 51.32.080 as now or hereafter amended for permanent partial disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section equally apply under this chapter.

(7) The benefits established in RCW 51.32.090 as now or hereafter amended for temporary total disability shall be the benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That no person is eligible for temporary total disability benefits under this chapter if such person was not gainfully employed at the time of the criminal act, and was not so employed for at least three consecutive months of the twelve months immediately preceding the criminal act.

(8) The benefits established in RCW 51.32.095 as now or hereafter amended for continuation of benefits during vocational rehabilitation shall be benefits obtainable under this chapter, and provisions relating to payment contained in that section apply under this chapter: PROVIDED, That benefits shall not exceed five thousand dollars for any single injury.

(9) The provisions for lump sum payment of benefits upon death or permanent total disability as contained in RCW 51.32.130 as now or hereafter amended apply under this chapter.

(10) The provisions relating to payment of benefits to, for or on behalf of workers contained in RCW 51.32.040, 51.32.055, 51.32.100, 51.32.110, 51.32.120, 51.32.135, 51.32.140, 51.32.150, 51.32.160, and 51.32.210 as now or hereafter amended are applicable to payment of benefits to, for or on behalf of victims under this chapter.

(11) No person or spouse, child, or dependent of such person is entitled to benefits under this chapter where the person making a claim for such benefits has refused to give reasonable cooperation to state or local law enforcement agencies in their efforts to apprehend and convict the perpetrator(s) of the criminal act which gave rise to the claim.

(12) In addition to other benefits provided under this chapter, victims of sexual assault are entitled to receive appropriate counseling. Fees for such counseling shall be determined by the department in accordance with RCW 51.04.030, subject to the limitations of RCW 7.68.080. Counseling services may include, if determined appropriate by the department, counseling of members of the victim's immediate family, other than the perpetrator of the assault.

(13) Except for medical benefits authorized under RCW 7.68.080, no more than ~~((fifteen))~~ thirty thousand dollars shall be granted as a result of a single injury or death, except that benefits granted as the result of total permanent disability or death shall not exceed ~~((twenty))~~ forty thousand dollars.

(14) Notwithstanding other provisions of this chapter and Title 51 RCW, benefits payable for total temporary disability under subsection (7) of this section, shall be limited to ~~((ten))~~ fifteen thousand dollars.

(15) Any person who is responsible for the victim's injuries, or who would otherwise be unjustly enriched as a result of the victim's injuries, shall not be a beneficiary under this chapter.

(16) Crime victims' compensation is not available to pay for services covered under chapter 74.09 RCW or Title XIX of the federal social security act, except to the extent that the costs for such services exceed service limits established by the department of social and health services.

Sec. 503. Section 8, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 6, chapter 5, Laws of 1989 1st ex. sess. and RCW 7.68.080 are each amended to read as follows:

The provisions of chapter 51.36 RCW as now or hereafter amended govern the provision of medical aid under this chapter to victims injured as a result of a criminal act, including criminal acts committed between July 1, 1981, and January 1, 1983, except that:

(1) The provisions contained in RCW 51.36.030, 51.36.040, and 51.36.080 as now or hereafter amended do not apply to this chapter;

(2) The specific provisions of RCW 51.36.020 as now or hereafter amended relating to supplying emergency transportation do not apply: **PROVIDED, That:**

(a) When the injury to any victim is so serious as to require the victim's being taken from the place of injury to a place of treatment, reasonable transportation costs to the nearest place of proper treatment shall be reimbursed from the fund established pursuant to RCW 7.68.090; and

(b) In the case of alleged rape or molestation of a child the reasonable costs of a colposcope examination shall be reimbursed from the fund pursuant to RCW 7.68.090. Hospital, clinic, and medical charges along with all related fees under this chapter shall conform to regulations promulgated by the director. The director shall set these service levels and fees at a level no lower than those established by the department of social and health services under Title 74 RCW. In establishing fees for medical and other health care services, the director shall consider the director's duty to purchase health care in a prudent, cost-effective manner. The director shall establish rules adopted in accordance with chapter 34.05 RCW. Nothing in this chapter may be construed to require the payment of interest on any billing, fee, or charge.

Sec. 504. Section 3, chapter 5, Laws of 1989 1st ex. sess. and RCW 7.68.085 are each amended to read as follows:

The director of labor and industries shall institute a cap on medical benefits of one hundred fifty thousand dollars per ~~((victim))~~ injury or death. Payment for medical services in excess of the cap shall be made available to

any innocent victim under the same conditions as other medical services and if the medical services are:

- (1) Necessary for a previously accepted condition;
- (2) Necessary to protect the victim's life or prevent deterioration of the victim's previously accepted condition; and
- (3) Not available from an alternative source.

The director of financial management and the director of labor and industries shall monitor expenditures from the public safety and education account. Once each fiscal quarter, the director of financial management shall determine if expenditures from the public safety and education account during the prior fiscal quarter exceeded allotments by more than ten percent. Within thirty days of a determination that expenditures exceeded allotments by more than ten percent, the director of financial management shall develop and implement a plan to reduce expenditures from the account to a level that does not exceed the allotments. Such a plan may include across-the-board reductions in allotments from the account to all nonjudicial agencies except for the crime victims compensation program. In implementing the plan, the director of financial management shall seek the cooperation of judicial agencies in reducing their expenditures from the account. The director of financial management shall notify the legislative fiscal committees prior to implementation of the plan.

Development and implementation of the plan is not required if the director of financial management notifies the legislative fiscal committees that increases in the official revenue forecast for the public safety and education account for that fiscal quarter will eliminate the need to reduce expenditures from the account. The official revenue forecast for the public safety and education account shall be prepared by the economic and revenue forecast council pursuant to RCW 82.01.120 and 82.01.130.

For the purposes of this section, an individual will not be required to use his or her assets other than funds recovered as a result of a civil action or criminal restitution, for medical expenses or pain and suffering, in order to qualify for an alternative source of payment.

The director shall, in cooperation with the department of social and health services, establish by October 1, 1989, a process to aid crime victims in identifying and applying for appropriate alternative benefit programs, if any, administered by the department of social and health services.

PART VI

SEXUAL MOTIVATION IN CRIMINAL OFFENSES

NEW SECTION. Sec. 601. A new section is added to chapter 9.94A RCW to read as follows:

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every criminal case other than sex offenses as defined in RCW 9.94A.030(29) (a) or (c) when sufficient admissible evidence exists, which,

when considered with the most plausible, reasonably foreseeable defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

(2) In a criminal case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the accused committed the crime with a sexual motivation. The court shall make a finding of fact of whether or not a sexual motivation was present at the time of the commission of the crime, or if a jury trial is had, the jury shall, if it finds the defendant guilty, also find a special verdict as to whether or not the defendant committed the crime with a sexual motivation. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030(29) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of sexual motivation without approval of the court through an order of dismissal of the special allegation. The court shall not dismiss this special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

Sec. 602. Section 2, chapter 252, Laws of 1989 and section 1, chapter 394, Laws of 1989 and RCW 9.94A.030 are each reenacted and amended to read as follows:

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

(1) "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 (~~a one-year~~) 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 pursuant to this chapter by a court. For first-time offenders, the supervision may include crime-related prohibitions and other conditions imposed pursuant to RCW 9.94A.120(5). For purposes of the interstate compact for out-of-state supervision of parolees and probationers, RCW 9.95.270, community supervision is the functional equivalent of probation and should be considered the same as probation by other states.

(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.

(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); (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 comply with any limitations on the inmate's movements while in community custody (RCW 72.09.310); or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as an escape under (a) of this subsection.

(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, 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) "Nonviolent offense" means an offense which is not a violent offense.

(22) "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.

(23) "Partial confinement" means confinement for no more than one year in a facility or institution operated or utilized under contract by the state or any other unit of government, or, if home detention has been ordered by the court, in the residence of either the defendant or a member of the defendant's immediate family, for a substantial portion of each day with the balance of the day spent in the community. Partial confinement includes work release and home detention as defined in this section.

(24) "Postrelease supervision" is that portion of an offender's community placement that is not community custody.

(25) "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.

(26) "Serious traffic offense" means:

(a) Driving while intoxicated (RCW 46.61.502), actual physical control while intoxicated (RCW 46.61.504), reckless driving (RCW 46.61-.500), or hit-and-run an attended vehicle (RCW 46.52.020(5)); or

(b) Any federal, out-of-state, county, or municipal conviction for an offense that under the laws of this state would be classified as a serious traffic offense under (a) of this subsection.

(27) "Serious violent offense" is a subcategory of violent offense and means:

(a) Murder in the first degree, homicide by abuse, murder in the second degree, assault in the first degree, kidnapping in the first degree, or rape in the first degree, or an attempt, criminal solicitation, or criminal conspiracy to commit one of these felonies; or

(b) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a serious violent offense under (a) of this subsection.

(28) "Sentence range" means the sentencing court's discretionary range in imposing a nonappealable sentence.

(29) "Sex offense" means:

(a) A felony that is a violation of chapter 9A.44 RCW or RCW 9A.64.020 or 9.68A.090 or that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; ((or))

(b) A felony with a finding of sexual motivation under section 601 of this 1990 act; 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.

(30) "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.

(31) "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.

~~((31))~~ (32) "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.

~~((32))~~ (33) "Violent offense" means:

(a) Any of the following felonies, as now existing or hereafter amended: Any felony defined under any law as a class A felony or an attempt to commit a class A felony, criminal solicitation of or criminal conspiracy to commit a class A felony, manslaughter in the first degree, manslaughter in the second degree, indecent liberties if committed by forcible compulsion, ~~((child molestation in the first degree, rape in the second degree;))~~ kidnapping in the second degree, arson in the second degree, assault in the second degree, extortion in the first degree, robbery in the second degree, vehicular assault, and vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;

(b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and

(c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

~~((33))~~ (34) "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.

~~((34))~~ (35) "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, 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. 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: (a) Successfully completing twenty-one days in a work release program, (b) 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, (c) having no convictions for a violent felony offense during the preceding two years and not more than two prior convictions for a violent felony offense, (d) having no prior charges of escape, and (e) fulfilling the other conditions of the home detention program. Participation in a home detention program shall be conditioned upon: (a) The offender obtaining or maintaining current employment or attending a regular course of school study at regularly defined hours, or the offender performing parental duties to offspring or minors normally in the custody of the offender, (b) abiding by the rules of the home detention program, and (c) compliance with court-ordered 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. 603. Section 10, chapter 115, Laws of 1983 as last amended by section 1, chapter 408, Laws of 1989 and RCW 9.94A.390 are each amended to read as follows:

If the sentencing court finds that an exceptional sentence outside the standard range should be imposed in accordance with RCW 9.94A.120(2), the sentence is subject to review only as provided for in RCW 9.94A.210(4).

The following are illustrative factors which the court may consider in the exercise of its discretion to impose an exceptional sentence. The following are illustrative only and are not intended to be exclusive reasons for exceptional sentences.

(1) Mitigating Circumstances

(a) To a significant degree, the victim was an initiator, willing participant, aggressor, or provoker of the incident.

(b) Before detection, the defendant compensated, or made a good faith effort to compensate, the victim of the criminal conduct for any damage or injury sustained.

(c) The defendant committed the crime under duress, coercion, threat, or compulsion insufficient to constitute a complete defense but which significantly affected his or her conduct.

(d) The defendant, with no apparent predisposition to do so, was induced by others to participate in the crime.

(e) The defendant's capacity to appreciate the wrongfulness of his conduct or to conform his conduct to the requirements of the law, was significantly impaired (voluntary use of drugs or alcohol is excluded).

(f) The offense was principally accomplished by another person and the defendant manifested extreme caution or sincere concern for the safety or well-being of the victim.

(g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly excessive in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

(h) The defendant or the defendant's children suffered a continuing pattern of physical or sexual abuse by the victim of the offense and the offense is a response to that abuse.

(2) Aggravating Circumstances

(a) The defendant's conduct during the commission of the current offense manifested deliberate cruelty to the victim.

(b) The defendant knew or should have known that the victim of the current offense was particularly vulnerable or incapable of resistance due to extreme youth, advanced age, disability, or ill health.

(c) The current offense was a major economic offense or series of offenses, so identified by a consideration of any of the following factors:

(i) The current offense involved multiple victims or multiple incidents per victim;

(ii) The current offense involved attempted or actual monetary loss substantially greater than typical for the offense;

(iii) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time;

(iv) The defendant used his or her position of trust, confidence, or fiduciary responsibility to facilitate the commission of the current offense.

(d) The current offense was a major violation of the Uniform Controlled Substances Act, chapter 69.50 RCW (VUCSA), related to trafficking in controlled substances, which was more onerous than the typical offense of its statutory definition: The presence of ANY of the following may identify a current offense as a major VUCSA:

(i) The current offense involved at least three separate transactions in which controlled substances were sold, transferred, or possessed with intent to do so; or

(ii) The current offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(iii) The current offense involved the manufacture of controlled substances for use by other parties; or

(iv) The circumstances of the current offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(v) The current offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(vi) The offender used his or her position or status to facilitate the commission of the current offense, including positions of trust, confidence or fiduciary responsibility (e.g., pharmacist, physician, or other medical professional); or

(e) The current offense included a finding of sexual motivation pursuant to section 601 of this 1990 act;

(f) The offense was part of an ongoing pattern of sexual abuse of the same victim under the age of eighteen years manifested by multiple incidents over a prolonged period of time; or

((ff)) (g) The operation of the multiple offense policy of RCW 9.94A.400 results in a presumptive sentence that is clearly too lenient in light of the purpose of this chapter, as expressed in RCW 9.94A.010.

NEW SECTION. Sec. 604. A new section is added to chapter 13.40 RCW to read as follows:

(1) The prosecuting attorney shall file a special allegation of sexual motivation in every juvenile offense other than sex offenses as defined in

RCW 9.94A.030(29) (a) or (c) when sufficient admissible evidence exists, which, when considered with the most plausible, reasonably consistent defense that could be raised under the evidence, would justify a finding of sexual motivation by a reasonable and objective fact finder.

(2) In a juvenile case wherein there has been a special allegation the state shall prove beyond a reasonable doubt that the juvenile committed the offense with a sexual motivation. The court shall make a finding of fact of whether or not the sexual motivation was present at the time of the commission of the offense. This finding shall not be applied to sex offenses as defined in RCW 9.94A.030(29) (a) or (c).

(3) The prosecuting attorney shall not withdraw the special allegation of "sexual motivation" without approval of the court through an order of dismissal. The court shall not dismiss the special allegation unless it finds that such an order is necessary to correct an error in the initial charging decision or unless there are evidentiary problems which make proving the special allegation doubtful.

Sec. 605. Section 69, chapter 291, Laws of 1977 ex. sess. as last amended by section 12, chapter 299, Laws of 1981 and RCW 13.40.150 are each amended to read as follows:

(1) In disposition hearings all relevant and material evidence, including oral and written reports, may be received by the court and may be relied upon to the extent of its probative value, even though such evidence may not be admissible in a hearing on the information. The youth or the youth's counsel and the prosecuting attorney shall be afforded an opportunity to examine and controvert written reports so received and to cross-examine individuals making reports when such individuals are reasonably available, but sources of confidential information need not be disclosed. The prosecutor and counsel for the juvenile may submit recommendations for disposition.

(2) For purposes of disposition:

- (a) Violations which are current offenses count as misdemeanors;
- (b) Violations may not count as part of the offender's criminal history;
- (c) In no event may a disposition for a violation include confinement.

(3) Before entering a dispositional order as to a respondent found to have committed an offense, the court shall hold a disposition hearing, at which the court shall:

(a) Consider the facts supporting the allegations of criminal conduct by the respondent;

(b) Consider information and arguments offered by parties and their counsel;

(c) Consider any predisposition reports;

(d) Afford the respondent and the respondent's parent, guardian, or custodian an opportunity to speak in the respondent's behalf;

(e) Allow the victim or a representative of the victim and an investigative law enforcement officer to speak;

(f) Determine the amount of restitution owing to the victim, if any;

(g) Determine whether the respondent is a serious offender, a middle offender, or a minor or first offender;

(h) Consider whether or not any of the following mitigating factors exist:

(i) The respondent's conduct neither caused nor threatened serious bodily injury or the respondent did not contemplate that his or her conduct would cause or threaten serious bodily injury;

(ii) The respondent acted under strong and immediate provocation;

(iii) The respondent was suffering from a mental or physical condition that significantly reduced his or her culpability for the offense though failing to establish a defense;

(iv) Prior to his or her detection, the respondent compensated or made a good faith attempt to compensate the victim for the injury or loss sustained; and

(v) There has been at least one year between the respondent's current offense and any prior criminal offense;

(i) Consider whether or not any of the following aggravating factors exist:

(i) In the commission of the offense, or in flight therefrom, the respondent inflicted or attempted to inflict serious bodily injury to another;

(ii) The offense was committed in an especially heinous, cruel, or depraved manner;

(iii) The victim or victims were particularly vulnerable;

(iv) The respondent has a recent criminal history or has failed to comply with conditions of a recent dispositional order or diversion agreement;

(v) The current offense included a finding of sexual motivation pursuant to section 601 of this 1990 act;

(vi) The respondent was the leader of a criminal enterprise involving several persons; and

((vi)) (vii) There are other complaints which have resulted in diversion or a finding or plea of guilty but which are not included as criminal history.

(4) The following factors may not be considered in determining the punishment to be imposed:

(a) The sex of the respondent;

(b) The race or color of the respondent or the respondent's family;

(c) The creed or religion of the respondent or the respondent's family;

(d) The economic or social class of the respondent or the respondent's family; and

(e) Factors indicating that the respondent may be or is a dependent child within the meaning of this chapter.

(5) A court may not commit a juvenile to a state institution solely because of the lack of facilities, including treatment facilities, existing in the community.

NEW SECTION. Sec. 606. (1) Sections 601 through 605 of this act, for purposes of sentencing adult or juvenile offenders, shall take effect July 1, 1990, and shall apply to crimes or offenses committed on or after July 1, 1990.

(2) For purposes of defining a "sexually violent offense" pursuant to section 1002(4) of this act, sections 601 through 605 of this act shall take effect July 1, 1990, and shall apply to crimes committed on, before, or after July 1, 1990.

**PART VII
CRIMINAL SENTENCING**

Sec. 701. Section 2, chapter 115, Laws of 1983 as last amended by section 1, chapter 124, Laws of 1989 and by section 101, chapter 271, Laws of 1989 and RCW 9.94A.310 are each reenacted and amended to read as follows:

(1) **TABLE 1**
Sentencing Grid

SERIOUSNESS SCORE	OFFENDER SCORE								
	0	1	2	3	4	5	6	7	8	9 or more

~~((XIV))~~

~~XV~~ Life Sentence without Parole/Death Penalty

~~((XH))~~

XIV	23y4m	24y4m	25y4m	26y4m	27y4m	28y4m	30y4m	32y10m	36y	40y
	240-	250-	261-	271-	281-	291-	312-	338-	370-	411-
	320	333	347	361	374	388	416	450	493	548

~~((XH))~~

XIII	12y	13y	14y	15y	16y	17y	19y	21y	25y	29y
	123-	134-	144-	154-	165-	175-	195-	216-	257-	298-
	164	178	192	205	219	233	260	288	342	397

((XI	6y	6y9m	7y6m	8y3m	9y	9y9m	12y6m	13y6m	15y6m	17y6m
	62-	69-	77-	85-	93-	100-	129-	139-	159-	180-
	82	92	102	113	123	133	171	185	212	240))

SERIOUSNESS
SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
XII	9y 93- 123	9y11m 102- 136	10y9m 111- 147	11y8m 120- 160	12y6m 129- 171	13y5m 138- 184	15y9m 162- 216	17y3m 178- 236	20y3m 209- 277	23y3m 240- 318
XI	7y6m 78- 102	8y4m 86- 114	9y2m 95- 125	9y11m 102- 136	10y9m 111- 147	11y7m 120- 158	14y2m 146- 194	15y5m 159- 211	17y11m 185- 245	20y5m 210- 280
X	5y 51- 68	5y6m 57- 75	6y 62- 82	6y6m 67- 89	7y 72- 96	7y6m 77- 102	9y6m 98- 130	10y6m 108- 144	12y6m 129- 171	14y6m 149- 198
IX	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	5y 51- 68	5y6m 57- 75	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144	12y6m 129- 171
VIII	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	4y6m 46- 61	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116	10y6m 108- 144
VII	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y 41- 54	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102	8y6m 87- 116
VI	13m 12+- 14	18m 15- 20	2y 21- 27	2y6m 26- 34	3y 31- 41	3y6m 36- 48	4y6m 46- 61	5y6m 57- 75	6y6m 67- 89	7y6m 77- 102
V	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y 41- 54	5y 51- 68	6y 62- 82	7y 72- 96
IV	6m 3- 9	9m 6- 12	13m 12+- 14	15m 13- 17	18m 15- 20	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y2m 53- 70	6y2m 63- 84
III	2m 1- 3	5m 3- 8	8m 4- 12	11m 9- 12	14m 12+- 16	20m 17- 22	2y2m 22- 29	3y2m 33- 43	4y2m 43- 57	5y 51- 68

SERIOUSNESS SCORE

OFFENDER SCORE

	0	1	2	3	4	5	6	7	8	9 or more
II		4m	6m	8m	13m	16m	20m	2y2m	3y2m	4y2m
	0-90	2-	3-	4-	12+-	14-	17-	22-	33-	43-
	Days	6	9	12	14	18	22	29	43	57
I			3m	4m	5m	8m	13m	16m	20m	2y2m
	0-60	0-90	2-	2-	3-	4-	12+-	14-	17-	22-
	Days	Days	5	6	8	12	14	18	22	29

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), 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);

(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.

Sec. 702. Section 1, chapter 99, Laws of 1989, section 102, chapter 271, Laws of 1989, section 1, chapter 405, Laws of 1989, section 3, chapter 412, Laws of 1989, section 3, chapter 1, Laws of 1989 2nd ex. sess. and RCW 9.94A.320 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

~~((XIV))~~

XV Aggravated Murder 1 (RCW 10.95.020)

~~((XH))~~

XIV Murder 1 (RCW 9A.32.030)
Homicide by abuse (RCW 9A.32.055)

~~((XH))~~

XIII Murder 2 (RCW 9A.32.050)

~~((XI))~~

XII Assault 1 (RCW 9A.36.011)

XI

Rape 1 (RCW 9A.44.040)
Rape of a Child 1 (RCW 9A.44.073)

X

Kidnapping 1 (RCW 9A.40.020)
~~((Rape 1 (RCW 9A.44.040)~~
~~Rape of a Child 1 (RCW 9A.44.073))~~
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 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(~~(Under 16)~~) (RCW 9.68A.040(~~((2)(a))~~))
 Inciting Criminal Profiteering (RCW 9A.82.060(1)(b))
- VIII Arson 1 (RCW 9A.48.020)
 (~~Rape 2 (RCW 9A.44.050)~~)
~~Rape of a Child 2 (RCW 9A.44.076)~~
~~Child Molestation 1 (RCW 9A.44.083))~~
 Promoting Prostitution 1 (RCW 9A.88.070)
 Selling heroin for profit (RCW 69.50.410)
 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 (~~((with))~~ without forcible compulsion) (RCW 9A.44.100(1)(~~((a))~~) (b) and (c))
 (~~(Sexual Exploitation, Under 18 (RCW 9.68A.040(2)(b)))~~)
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)
 ((~~Child Molestation 2 (RCW 9A.44.086)~~))
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)
 ((~~Indecent Liberties (without forcible compulsion) (RCW 9A.44.100(1)(b) and (c))~~))
 Incest 1 (RCW 9A.64.020(1))
 Selling for profit (controlled or counterfeit) any controlled substance (except heroin) (RCW 69.50.410)
 Manufacture, deliver, or possess with intent to deliver 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)
 ((~~Rape of a Child 3 (RCW 9A.44.079)~~))

- Bribing a Witness/Bribe Received by Witness (RCW 9A.72-.090, 9A.72.100)
 - Malicious Harassment (RCW 9A.36.080)
 - 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)
 - ~~((Sexual Misconduct with a Minor 1 (RCW 9A.44.093)~~
 - ~~Child Molestation 3 (RCW 9A.44.089))~~
 - Extortion 2 (RCW 9A.56.130)
 - Unlawful Imprisonment (RCW 9A.40.040)
 - Assault 3 (RCW 9A.36.031)
 - 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)
- 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. 703. Section 6, chapter 115, Laws of 1983 and RCW 9.94A.350 are each amended to read as follows:

The offense seriousness level is determined by the offense of conviction. ~~((Felony offenses are divided into fourteen levels of seriousness, ranging from low (seriousness level I) to high (seriousness level XIV — see RCW 9.94A.320 (Table 2)))).~~

Sec. 704. Section 11, chapter 115, Laws of 1983 as last amended by section 24, chapter 143, Laws of 1988 and by section 5, chapter 157, Laws of 1988 and RCW 9.94A.400 are each reenacted and amended to read as follows:

(1) (a) Except as provided in (b) of this subsection, whenever a person is to be sentenced for two or more current offenses, the sentence range for each current offense shall be determined by using all other current and prior convictions as if they were prior convictions for the purpose of the offender score: PROVIDED, That if the court enters a finding that some or all of the current offenses encompass the same criminal conduct then those current offenses shall be counted as one crime. Sentences imposed under this subsection shall be served concurrently. Consecutive sentences may only be imposed under the exceptional sentence provisions of RCW 9.94A.120 and 9.94A.390(2)((~~3~~))(f) or any other provision of RCW 9.94A.390. "Same criminal conduct," as used in this subsection, means two or more crimes that require the same criminal intent, are committed at the same time and place, and involve the same victim. This definition does not apply in cases involving vehicular assault or vehicular homicide if the victims occupied the same vehicle. However, the sentencing judge may consider multiple victims in such instances as an aggravating circumstance under RCW 9.94A.390.

(b) Whenever a person is convicted of ((three)) two or more serious violent offenses, as defined in RCW 9.94A.030, arising from separate and distinct criminal conduct, the sentence range for the offense with the highest seriousness level under RCW 9.94A.320 shall be determined using the offender's prior convictions and other current convictions that are not serious violent offenses in the offender score and the sentence range for other serious violent offenses shall be determined by using an offender score of zero. The sentence range for any offenses that are not serious violent offenses shall be determined according to (a) of this subsection. All sentences imposed under (b) of this subsection shall be served consecutively to each other and concurrently with sentences imposed under (a) of this subsection.

(2) Whenever a person while under sentence of felony commits another felony and is sentenced to another term of confinement, the latter term shall not begin until expiration of all prior terms.

(3) Subject to subsections (1) and (2) of this section, whenever a person is sentenced for a felony that was committed while the person was not under sentence of a felony, the sentence shall run concurrently with any felony sentence which has been imposed by any court in this or another state or by a federal court subsequent to the commission of the crime being sentenced unless the court pronouncing the current sentence expressly orders that they be served consecutively.

(4) Whenever any person granted probation under RCW 9.95.210 or 9.92.060, or both, has the probationary sentence revoked and a prison sentence imposed, that sentence shall run consecutively to any sentence imposed pursuant to this chapter, unless the court pronouncing the subsequent sentence expressly orders that they be served concurrently.

(5) However, in the case of consecutive sentences, all periods of total confinement shall be served before any partial confinement, community service, community supervision, or any other requirement or conditions of any of the sentences. Except for exceptional sentences as authorized under RCW 9.94A.120(2), if two or more sentences that run consecutively include periods of community supervision, the aggregate of the community supervision period shall not exceed twenty-four months.

Sec. 705. Section 4, chapter 252, Laws of 1989 and RCW 9.94A.120 are each amended to read as follows:

When a person is convicted of a felony, the court shall impose punishment as provided in this section.

(1) Except as authorized in subsections (2), (5), and (7) of this section, the court shall impose a sentence within the sentence range for the offense.

(2) The court may impose a sentence outside the standard sentence range for that offense if it finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(3) Whenever a sentence outside the standard range is imposed, the court shall set forth the reasons for its decision in written findings of fact and conclusions of law. A sentence outside the standard range shall be a determinate sentence.

(4) An offender convicted of the crime of murder in the first degree shall be sentenced to a term of total confinement not less than twenty years. An offender convicted of the crime of assault in the first degree where the offender used force or means likely to result in death or intended to kill the victim shall be sentenced to a term of total confinement not less than five years. An offender convicted of the crime of rape in the first degree shall be sentenced to a term of total confinement not less than ~~((three))~~ five years, and shall not be eligible for furlough, work release or other authorized leave of absence from the correctional facility during such minimum ~~((three year))~~ five-year term except for the purpose of commitment to an inpatient treatment facility. The foregoing minimum terms of total confinement are mandatory and shall not be varied or modified as provided in subsection (2) of this section.

(5) In sentencing a first-time offender the court may waive the imposition of a sentence within the sentence range and impose a sentence which may include up to ninety days of confinement in a facility operated or utilized under contract by the county and a requirement that the offender refrain from committing new offenses. The sentence may also include up to two years of community supervision, which, in addition to crime-related prohibitions, may include requirements that the offender perform any one or more of the following:

(a) Devote time to a specific employment or occupation;

(b) Undergo available outpatient treatment for up to two years, or inpatient treatment not to exceed the standard range of confinement for that offense;

(c) Pursue a prescribed, secular course of study or vocational training;

(d) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

(e) Report as directed to the court and a community corrections officer;

or

(f) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030 and/or perform community service work.

(6) If a sentence range has not been established for the defendant's crime, the court shall impose a determinate sentence which may include not more than one year of confinement, community service work, a term of community supervision not to exceed one year, and/or other legal financial obligations. The court may impose a sentence which provides more than one year of confinement if the court finds, considering the purpose of this chapter, that there are substantial and compelling reasons justifying an exceptional sentence.

(7)(a) (i) When an offender is convicted of a sex offense other than a violation of ~~((RCW 9A.44.040 or))~~ RCW 9A.44.050 or a sex offense that is also a serious violent offense and has no prior convictions for a sex offense or any other felony (~~(sexual))~~ sex offenses in this or any other state, the sentencing court, on its own motion or the motion of the state or the defendant, may order an examination to determine whether the defendant is amenable to treatment.

The report of the examination shall include at a minimum the following: The defendant's version of the facts and the official version of the facts, the defendant's offense history, an assessment of problems in addition to alleged deviant behaviors, the offender's social 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 defendant's amenability to treatment and relative risk to the community. A proposed treatment plan shall be provided and shall include, at a minimum:

(A) Frequency and type of contact between offender and therapist;

(B) Specific issues to be addressed in the treatment and description of planned treatment modalities;

(C) Monitoring plans, including any requirements regarding living conditions, lifestyle requirements, and monitoring by family members and others;

(D) Anticipated length of treatment; and

(E) 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.

(ii) After receipt of the reports, the court shall ~~((then determine))~~ consider whether the offender and the community will benefit from use of this special sexual offender sentencing alternative and consider the victim's opinion whether the offender should receive a treatment disposition under this subsection. If the court determines that ~~((both the offender and the community will benefit from use of this provision))~~ this special sex offender sentencing alternative is appropriate, the court shall then impose a sentence within the sentence range ~~((and;))~~. If this sentence is less than ~~((six))~~ eight years of confinement, the court may suspend the execution of the sentence and impose the following conditions of suspension:

(A) The court shall place the ~~((offender))~~ defendant on community supervision for ~~((up to two))~~ the length of the suspended sentence or three years, whichever is greater; and

(B) The court shall order treatment for any period up to three years in duration. The court in its discretion shall order outpatient sex offender treatment or inpatient sex offender treatment, if available. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment. The offender shall not change sex offender treatment providers or treatment conditions without first notifying the prosecutor, the community corrections officer, and the court, and shall not change providers without court approval after a hearing if the prosecutor or community corrections officer object to the change. In addition, as ~~((a))~~ conditions of the suspended sentence, the court may impose other sentence conditions including up to six months of confinement, not to exceed the sentence range of confinement for that offense, crime-related prohibitions, and requirements that the offender perform any one or more of the following:

~~((i))~~ (I) Devote time to a specific employment or occupation;

~~((ii))~~ Undergo available outpatient sex offender treatment for up to two years, or inpatient sex offender treatment not to exceed the standard range of confinement for that offense. A community mental health center may not be used for such treatment unless it has an appropriate program designed for sex offender treatment;

~~((iii))~~ (II) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;

~~((iv))~~ (III) Report as directed to the court and a community corrections officer;

~~((v))~~ (IV) Pay all court-ordered legal financial obligations as provided in RCW 9.94A.030, perform community service work, or any combination thereof; or

~~((v))~~ (V) Make recoupment to the victim for the cost of any counseling required as a result of the offender's crime.

(iii) The sex offender therapist shall submit quarterly reports on the defendant's progress in treatment to the court and the parties. The report shall reference the treatment plan and include at a minimum the following: Dates of attendance, defendant's compliance with requirements, treatment activities, the defendant's relative progress in treatment, and any other material as specified by the court at sentencing.

(iv) At the time of sentencing, the court shall set a treatment termination hearing for three months prior to the anticipated date for completion of treatment. Prior to the treatment termination hearing, the treatment professional and community corrections officer shall submit written reports to the court and parties regarding the defendant's compliance with treatment and monitoring requirements, and recommendations regarding termination from treatment, including proposed community supervision conditions. Either party may request and the court may order another evaluation regarding the advisability of termination from treatment. The defendant shall pay the cost of any additional evaluation ordered unless the court finds the defendant to be indigent in which case the state shall pay the cost. At the treatment termination hearing the court may: (A) Modify conditions of community supervision, and either (B) terminate treatment, or (C) extend treatment for up to the remaining period of community supervision.

(v) The court may revoke the suspended sentence at any time during the period of community supervision and order execution of the sentence if: (A) The ~~((offender))~~ defendant violates ~~((these sentence))~~ the conditions ~~((the court may revoke the suspension and order execution of the sentence))~~ of the suspended sentence, or (B) the court finds that the defendant is failing to make satisfactory progress in treatment. All confinement time served during the period of community supervision shall be credited to the offender if the suspended sentence is revoked.

(vi) 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 sections 801 through 809 of this 1990 act.

For purposes of this subsection, "victim" means any person who has sustained emotional, psychological, physical, or financial injury to person or property as a result of the crime charged. "Victim" also means a parent or guardian of a victim who is a minor child unless the parent or guardian is the perpetrator of the offense.

(b) When an offender is convicted of any felony ~~((sexual))~~ sex offense committed before July 1, 1987, and is sentenced to a term of confinement of

more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, order the offender committed for up to thirty days to the custody of the secretary of social and health services for evaluation and report to the court on the offender's amenability to treatment at these facilities. If the secretary of social and health services cannot begin the evaluation within thirty days of the court's order of commitment, the offender shall be transferred to the state for confinement pending an opportunity to be evaluated at the appropriate facility. The court shall review the reports and may order that the term of confinement imposed be served in the sexual offender treatment program at the location determined by the secretary of social and health services or the secretary's designee, only if the report indicates that the offender is amenable to the treatment program provided at these facilities. The offender shall be transferred to the state pending placement in the treatment program. Any offender who has escaped from the treatment program shall be referred back to the sentencing court.

If the offender does not comply with the conditions of the treatment program, the secretary of social and health services may refer the matter to the sentencing court. The sentencing court shall commit the offender to the department of corrections to serve the balance of the term of confinement.

If the offender successfully completes the treatment program before the expiration of the term of confinement, the court may convert the balance of confinement to community supervision and may place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of community supervision, the court may order the offender to serve out the balance of the community supervision term in confinement in the custody of the department of corrections.

After June 30, 1993, this subsection (b) shall cease to have effect.

(c) When an offender commits any felony (~~sexual~~) sex offense on or after July 1, 1987, and is sentenced to a term of confinement of more than one year but less than six years, the sentencing court may, on its own motion or on the motion of the offender or the state, request the department of corrections to evaluate whether the offender is amenable to treatment and the department may place the offender in a treatment program within a correctional facility operated by the department.

Except for an offender who has been convicted of a violation of RCW 9A.44.040 or 9A.44.050, if the offender completes the treatment program before the expiration of his term of confinement, the department of corrections may request the court to convert the balance of confinement to community supervision and to place conditions on the offender including crime-related prohibitions and requirements that the offender perform any one or more of the following:

- (i) Devote time to a specific employment or occupation;
- (ii) Remain within prescribed geographical boundaries and notify the court or the community corrections officer prior to any change in the offender's address or employment;
- (iii) Report as directed to the court and a community corrections officer;
- (iv) Undergo available outpatient treatment.

If the offender violates any of the terms of his community supervision, the court may order the offender to serve out the balance of his community supervision term in confinement in the custody of the department of corrections.

Nothing in (c) of this subsection shall confer eligibility for such programs for offenders convicted and sentenced for a ((sexual)) sex offense committed prior to July 1, 1987. This subsection (c) does not apply to any crime committed after the effective date of this section.

(d) Offenders convicted and sentenced for a sex offense committed prior to July 1, 1987, may, subject to available funds, request an evaluation by the department of corrections to determine whether they are amenable to treatment. If the offender is determined to be amenable to treatment, the offender may request placement in a treatment program within a correctional facility operated by the department. Placement in such treatment program is subject to available funds.

(8) (a) When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense((;)) or a serious violent offense committed after July 1, 1988, but before July 1, 1990, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988, the court shall in addition to the other terms of the sentence, sentence the offender to a one-year term of community placement beginning either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this ((section)) subsection to

the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of such community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence.

(b) ~~((When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense, a serious violent offense, assault in the second degree, any crime against a person where it is determined in accordance with RCW 9.94A.125 that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or any felony offense under chapter 69.50 or 69.52 RCW, committed on or after July 1, 1988,))~~ When a court sentences a person to a term of total confinement to the custody of the department of corrections for an offense categorized as a sex offense or serious violent offense committed on or after July 1, 1990, the court shall in addition to other terms of the sentence, sentence the offender to community placement for two years or up to the period of earned early release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The community placement shall begin either upon completion of the term of confinement or at such time as the offender is transferred to community custody in lieu of earned early release in accordance with RCW 9.94A.150 (1) and (2). When the court sentences an offender under this subsection to the statutory maximum period of confinement then the community placement portion of the sentence shall consist entirely of the community custody to which the offender may become eligible, in accordance with RCW 9.94A.150 (1) and (2). Any period of community custody actually served shall be credited against the community placement portion of the sentence. Unless a condition is waived by the court, ((the sentence shall include, in addition to the other terms of the sentence, a one-year)) the terms of community placement ((on)) for offenders sentenced pursuant to this section shall include the following conditions:

(i) The offender shall report to and be available for contact with the assigned community corrections officer as directed;

(ii) The offender shall work at department of corrections-approved education, employment, and/or community service;

(iii) The offender shall not consume controlled substances except pursuant to lawfully issued prescriptions;

(iv) An offender in community custody shall not unlawfully possess controlled substances; and

(v) The offender shall pay supervision fees as determined by the department of corrections.

(c) The court may also order any of the following special conditions:

(i) The offender shall remain within, or outside of, a specified geographical boundary;

(ii) The offender shall not have direct or indirect contact with the victim of the crime or a specified class of individuals;

(iii) The offender shall participate in crime-related treatment or counseling services;

(iv) The offender shall not consume alcohol;

(v) The residence location and living arrangements of a sex offender shall be subject to the prior approval of the department of corrections; or

(vi) The offender shall comply with any crime-related prohibitions.

(d) Prior to transfer to, or during, community placement, any conditions of community placement may be removed or modified so as not to be more restrictive by the sentencing court, upon recommendation of the department of corrections.

(9) If the court imposes a sentence requiring confinement of thirty days or less, the court may, in its discretion, specify that the sentence be served on consecutive or intermittent days. A sentence requiring more than thirty days of confinement shall be served on consecutive days. Local jail administrators may schedule court-ordered intermittent sentences as space permits.

(10) If a sentence imposed includes payment of a legal financial obligation, the sentence shall specify the total amount of the legal financial obligation owed, and shall require the offender to pay a specified monthly sum toward that legal financial obligation. Restitution to victims shall be paid prior to any other payments of monetary obligations. Any legal financial obligation that is imposed by the court may be collected by the department, which shall deliver the amount paid to the county clerk for credit. The offender's compliance with payment of legal financial obligations shall be supervised by the department. All monetary payments ordered shall be paid no later than ten years after the last date of release from confinement pursuant to a felony conviction or the date the sentence was entered. Independent of the department, the party or entity to whom the legal financial obligation is owed shall have the authority to utilize any other remedies available to the party or entity to collect the legal financial obligation. Nothing in this section makes the department, the state, or any of its employees, agents, or other persons acting on their behalf liable under any circumstances for the payment of these legal financial obligations. If an order includes restitution as one of the monetary assessments, the county clerk shall make disbursements to victims named in the order.

(11) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a court may not impose a sentence providing for a term of confinement or community supervision or community placement which exceeds the statutory maximum for the crime as provided in chapter 9A.20 RCW.

(12) All offenders sentenced to terms involving community supervision, community service, community placement, or legal financial obligation shall be under the supervision of the secretary of the department of corrections or such person as the secretary may designate and shall follow explicitly the

instructions of the secretary including reporting as directed to a community corrections officer, remaining within prescribed geographical boundaries, and notifying the community corrections officer of any change in the offender's address or employment.

(13) The sentencing court shall give the offender credit for all confinement time served before the sentencing if that confinement was solely in regard to the offense for which the offender is being sentenced.

(14) A departure from the standards in RCW 9.94A.400(1) and (2) governing whether sentences are to be served consecutively or concurrently is an exceptional sentence subject to the limitations in subsections (2) and (3) of this section, and may be appealed by the defendant or the state as set forth in RCW 9.94A.210(2) through (6).

(15) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(16) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(17) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release or in a program of home detention.

(18) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Sec. 706. Section 103, chapter 271, Laws of 1989 and RCW 9.94A.360 are each amended to read as follows:

The offender score is measured on the horizontal axis of the sentencing grid. The offender score rules are as follows:

The offender score is the sum of points accrued under this section rounded down to the nearest whole number.

(1) A prior conviction is a conviction which exists before the date of sentencing for the offense for which the offender score is being computed. Convictions entered or sentenced on the same date as the conviction for which the offender score is being computed shall be deemed "other current offenses" within the meaning of RCW 9.94A.400.

(2) Except as provided in subsection (4) of this section, class A and sex prior felony convictions shall always be included in the offender score. Class B prior felony convictions other than sex offenses shall not be included in the offender score, if since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent ten consecutive years in the community without being convicted of any felonies. Class C prior felony convictions other than sex offenses shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender had spent five consecutive years in the community without being convicted of any felonies. Serious traffic convictions shall not be included in the offender score if, since the last date of release from confinement (including full-time residential treatment) pursuant to a felony conviction, if any, or entry of judgment and sentence, the offender spent five years in the community without being convicted of any serious traffic or felony traffic offenses. This subsection applies to both adult and juvenile prior convictions.

(3) Out-of-state convictions for offenses shall be classified according to the comparable offense definitions and sentences provided by Washington law.

(4) Always include juvenile convictions for sex offenses. Include other class A juvenile felonies only if the offender was 15 or older at the time the juvenile offense was committed. Include other class B and C juvenile felony convictions only if the offender was 15 or older at the time the juvenile offense was committed and the offender was less than 23 at the time the offense for which he or she is being sentenced was committed.

(5) Score prior convictions for felony anticipatory offenses (attempts, criminal solicitations, and criminal conspiracies) the same as if they were convictions for completed offenses.

(6) In the case of multiple prior convictions, for the purpose of computing the offender score, count all convictions separately, except:

(a) Prior adult offenses which were found, under RCW 9.94A.400(1)(a), to encompass the same criminal conduct, shall be counted as one offense, the offense that yields the highest offender score. The current sentencing court shall determine with respect to other prior adult offenses for which sentences were served concurrently whether those offenses shall be counted as one offense or as separate offenses, and if the court finds that they shall be counted as one offense, then the offense that yields the highest offender score shall be used;

(b) Juvenile prior convictions entered or sentenced on the same date shall count as one offense, the offense that yields the highest offender score, except for juvenile prior convictions for violent offenses with separate victims, which shall count as separate offenses; and

(c) In the case of multiple prior convictions for offenses committed before July 1, 1986, for the purpose of computing the offender score, count all adult convictions served concurrently as one offense, and count all juvenile convictions entered on the same date as one offense. Use the conviction for the offense that yields the highest offender score.

(7) If the present conviction is one of the anticipatory offenses of criminal attempt, solicitation, or conspiracy, count each prior conviction as if the present conviction were for a completed offense.

(8) If the present conviction is for a nonviolent offense and not covered by subsection (12) or (13) of this section, count one point for each adult prior felony conviction and one point for each juvenile prior violent felony conviction and 1/2 point for each juvenile prior nonviolent felony conviction.

(9) If the present conviction is for a violent offense and not covered in subsection (10), (11), (12), or (13) of this section, count two points for each prior adult and juvenile violent felony conviction, one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(10) If the present conviction is for Murder 1 or 2, Assault 1, Kidnaping 1, Homicide by Abuse, or Rape 1, count three points for prior adult and juvenile convictions for crimes in these categories, two points for each prior adult and juvenile violent conviction (not already counted), one point for each prior adult nonviolent felony conviction, and 1/2 point for each prior juvenile nonviolent felony conviction.

(11) If the present conviction is for Burglary 1, count prior convictions as in subsection (9) of this section; however count two points for each prior adult Burglary 2 or residential burglary conviction, and one point for each prior juvenile Burglary 2 or residential burglary conviction.

(12) If the present conviction is for a felony traffic offense count two points for each adult or juvenile prior conviction for Vehicular Homicide or Vehicular Assault; for each felony offense or serious traffic offense, count one point for each adult and 1/2 point for each juvenile prior conviction.

(13) If the present conviction is for a drug offense count three points for each adult prior felony drug offense conviction and two points for each juvenile drug offense. All other adult and juvenile felonies are scored as in subsection (9) of this section if the current drug offense is violent, or as in subsection (8) of this section if the current drug offense is nonviolent.

(14) If the present conviction is for Willful Failure to Return from Furlough, RCW 72.66.060, or Willful Failure to Return from Work Release, RCW 72.65.070, count only prior escape convictions in the offender score. Count adult prior escape convictions as one point and juvenile prior escape convictions as 1/2 point.

(15) If the present conviction is for Escape 1, RCW 9A.76.110, or Escape 2, RCW 9A.76.120, count adult prior convictions as one point and juvenile prior convictions as 1/2 point.

(16) If the present conviction is for Burglary 2 or residential burglary, count priors as in subsection (8) of this section; however, count two points for each adult and juvenile prior Burglary 1 conviction, two points for each adult prior Burglary 2 or residential burglary conviction, and one point for each juvenile prior Burglary 2 or residential burglary conviction.

(17) If the present conviction is for a sex offense, count priors as in subsections (8) through (16) of this section; however count three points for each adult and juvenile prior sex offense conviction.

(18) If the present conviction is for an offense committed while the offender was under community placement, add one point.

Sec. 707. Section 24, chapter 137, Laws of 1981 as last amended by section 1, chapter 259, Laws of 1989 and RCW 9.95.009 are each amended to read as follows:

(1) On July 1, 1986, the board of prison terms and paroles shall be redesignated as the indeterminate ((sentencing)) sentence review board. The board's membership shall be reduced as follows: On July 1, 1986, and on July 1st of each year until 1998, the number of board members shall be reduced in a manner commensurate with the board's remaining workload as determined by the office of financial management based upon its population forecast for the indeterminate sentencing system and in conjunction with the budget process. To meet the statutory obligations of the indeterminate sentence review board, the number of board members shall not be reduced to fewer than three members, although the office of financial management may designate some or all members as part-time members and specify the extent to which they shall be less than full-time members. Any reduction shall take place by the expiration, on that date, of the term or terms having the least time left to serve.

(2) After July 1, 1984, the board shall continue its functions with respect to persons convicted of crimes committed prior to July 1, 1984, and committed to the department of corrections. When making decisions on duration of confinement, including those relating to persons committed under a mandatory life sentence, and parole release under RCW 9.95.100 and 9.95.110, the board shall consider the purposes, standards, and sentencing ranges adopted pursuant to RCW 9.94A.040 and the minimum term recommendations of the sentencing judge and prosecuting attorney, and shall attempt to make decisions reasonably consistent with those ranges, standards, purposes, and recommendations: PROVIDED, That the board and its successors shall give adequate written reasons whenever a minimum term or parole release decision is made which is outside the sentencing ranges adopted pursuant to RCW 9.94A.040. In making such decisions, the board

and its successors shall consider the different charging and disposition practices under the indeterminate sentencing system.

(3) Notwithstanding the provisions of subsection (2) of this section, the indeterminate sentence review board shall give public safety considerations the highest priority when making all discretionary decisions on the remaining indeterminate population regarding the ability for parole, parole release, and conditions of parole.

NEW SECTION. Sec. 708. A new section is added to chapter 72.09 RCW to read as follows:

In making all discretionary decisions regarding supervision of sexually violent offenders, the department of corrections shall set priorities and make decisions based on an assessment of public safety risks rather than the legal category of the sentences.

PART VIII

CERTIFICATION OF SEX OFFENDER TREATMENT PROVIDERS

NEW SECTION. Sec. 801. The legislature finds that sex offender therapists who examine and treat sex offenders pursuant to the special sexual offender sentencing alternative under RCW 9.94A.120(7)(a) and who may treat juvenile sex offenders pursuant to section 302 of this act, play a vital role in protecting the public from sex offenders who remain in the community following conviction. The legislature finds that the qualifications, practices, techniques, and effectiveness of sex offender treatment providers vary widely and that the court's ability to effectively determine the appropriateness of granting the sentencing alternative and monitoring the offender to ensure continued protection of the community is undermined by a lack of regulated practices. The legislature recognizes the right of sex offender therapists to practice, consistent with the paramount requirements of public safety. Public safety is best served by regulating sex offender therapists whose clients are being evaluated and being treated pursuant to RCW 9.94A.120(7)(a) and section 302 of this act. This chapter shall be construed to require only those sex offender therapists who examine and treat sex offenders pursuant to RCW 9.94A.120(7)(a) and section 302 of this act to obtain a sexual offender treatment certification as provided in this chapter.

NEW SECTION. Sec. 802. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

(1) "Certified sex offender treatment provider" means a licensed, certified, or registered health professional who is certified to examine and treat sex offenders pursuant to RCW 9.94A.120(7)(a) and section 302 of this act.

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

(3) "Secretary" means the secretary of health.

(4) "Sex offender treatment provider" means a person who counsels or treats sex offenders accused of or convicted of a sex offense as defined by RCW 9.94A.030.

NEW SECTION. Sec. 803. (1) No person shall represent himself or herself as a certified sex offender treatment provider without first applying for and receiving a certificate pursuant to this chapter.

(2) Only a certified sex offender treatment provider may perform or provide the following services:

(a) Evaluations conducted for the purposes of and pursuant to RCW 9.94A.120(7)(a) and section 302 of this act;

(b) Treatment of convicted sex offenders who are sentenced and ordered into treatment pursuant to RCW 9.94A.120(7)(a) and adjudicated juvenile sex offenders who are ordered into treatment pursuant to section 302 of this act.

NEW SECTION. Sec. 804. In addition to any other authority provided by law, the secretary shall have the following authority:

(1) To set all fees required in this chapter in accordance with RCW 43.70.250;

(2) To establish forms necessary to administer this chapter;

(3) To issue a certificate to any applicant who has met the education, training, and examination requirements for certification and deny a certificate to applicants who do not meet the minimum qualifications for certification. Proceedings concerning the denial of certificates based on unprofessional conduct or impaired practice shall be governed by the uniform disciplinary act, chapter 18.130 RCW;

(4) To hire clerical, administrative, and investigative staff as needed to implement and administer this chapter and to hire individuals including those certified under this chapter to serve as examiners or consultants as necessary to implement and administer this chapter;

(5) To maintain the official department record of all applicants and certifications;

(6) To conduct a hearing on an appeal of a denial of a certificate on the applicant's failure to meet the minimum qualifications for certification. The hearing shall be conducted pursuant to chapter 34.05 RCW;

(7) To issue subpoenas, statements of charges, statements of intent to deny certificates, and orders and to delegate in writing to a designee the authority to issue subpoenas, statements of charges, and statements of intent to deny certificates;

(8) To determine the minimum education, work experience, and training requirements for certification, including but not limited to approval of educational programs;

(9) To prepare and administer or approve the preparation and administration of examinations for certification;

(10) To establish by rule the procedure for appeal of an examination failure;

(11) To adopt rules implementing a continuing competency program;

(12) To adopt rules in accordance with chapter 34.05 RCW as necessary to implement this chapter.

NEW SECTION. Sec. 805. (1) The sexual offender treatment providers advisory committee is established to advise the secretary concerning the administration of this chapter.

(2) The secretary shall appoint the members of the advisory committee who shall consist of the following persons:

(a) One superior court judge;

(b) Three sexual offender treatment providers;

(c) One mental health practitioner who specializes in treating victims of sexual assault;

(d) One defense attorney with experience in representing persons charged with sexual offenses;

(e) One representative from the Washington association of prosecuting attorneys;

(f) The secretary of the department of social and health services or his or her designee;

(g) The secretary of the department of corrections or his or her designee.

The secretary shall develop and implement the certification procedures with the advice of the committee by July 1, 1991. Following implementation of these procedures by the secretary, the committee shall be a permanent body. The members shall serve staggered six-year terms, to be set by the secretary. No person other than the members representing the departments of social and health services and corrections may serve more than two consecutive terms.

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

(3) Committee members shall be reimbursed for travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(4) The committee shall elect officers as deemed necessary to administer its duties. A simple majority of the committee members currently serving shall constitute a quorum of the committee.

(5) Members of the advisory committee shall be residents of this state. The members who are sex offender treatment providers must have a minimum of five years of extensive work experience in treating sex offenders to qualify for appointment to the initial committee, which shall develop and implement the certification program. After July 1, 1991, the sex offender treatment providers on the committee must be certified pursuant to this chapter.

(6) The committee shall meet at times as necessary to conduct committee business.

NEW SECTION. Sec. 806. The secretary, members of the committee, and individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any acts performed in the course of their duties.

NEW SECTION. Sec. 807. The department shall issue a certificate to any applicant who meets the following requirements:

(1) Successful completion of an educational program approved by the secretary or successful completion of alternate training which meets the criteria of the secretary;

(2) Successful completion of any experience requirement established by the secretary;

(3) Successful completion of an examination administered or approved by the secretary;

(4) Not having engaged in unprofessional conduct or being unable to practice with reasonable skill and safety as a result of a physical or mental impairment;

(5) Other requirements as may be established by the secretary that impact the competence of the sex offender treatment provider.

NEW SECTION. Sec. 808. The secretary shall establish by rule standards and procedures for approval of the following:

(1) Educational programs and alternate training;

(2) Examination procedures;

(3) Certifying applicants who have a comparable certification in another jurisdiction;

(4) Application method and forms;

(5) Requirements for renewals of certificates;

(6) Requirements of certified sex offender treatment providers who seek inactive status;

(7) Other rules as appropriate to carry out the purposes of this chapter.

NEW SECTION. Sec. 809. The uniform disciplinary act, chapter 18.130 RCW, governs unauthorized practice, the issuance and denial of certificates, and the discipline of certified sex offender treatment providers under this chapter.

Sec. 810. Section 7, chapter 243, Laws of 1988, section 22, chapter 267, Laws of 1988, and section 13, chapter 277, Laws of 1988 and RCW 18.130.040 are each reenacted and amended to read as follows:

(1) This chapter applies only to the ((director)) secretary and the boards having jurisdiction in relation to the professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2) (a) The ((director)) 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 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;
 - (xii) Nursing assistants registered or certified under chapter 18.52B RCW; ~~(and)~~
 - (xiii) Dietitians and nutritionists certified under chapter 18.138 RCW;
- and
- (xiv) Sex offender treatment providers certified under sections 801 through 809 of this 1990 act.
- (b) The boards having authority under this chapter are as follows:
 - (i) The podiatry board as established in chapter 18.22 RCW;
 - (ii) The chiropractic disciplinary board as established in chapter 18.26 RCW governing licenses issued under chapter 18.25 RCW;
 - (iii) The dental disciplinary board as established in chapter 18.32 RCW;
 - (iv) The council on hearing aids as established in chapter 18.35 RCW;
 - (v) The board of funeral directors and embalmers as established in chapter 18.39 RCW;
 - (vi) The board of examiners for nursing home administrators as established in chapter 18.52 RCW;
 - (vii) The optometry board as established in chapter 18.54 RCW governing licenses issued under chapter 18.53 RCW;
 - (viii) The board of osteopathic medicine and surgery as established in chapter 18.57 RCW governing licenses issued under chapters 18.57 and 18.57A RCW;
 - (ix) The medical disciplinary board as established in chapter 18.72 RCW governing licenses and registrations issued under chapters 18.71 and 18.71A RCW;
 - (x) The board of physical therapy as established in chapter 18.74 RCW;
 - (xi) The board of occupational therapy practice as established in chapter 18.59 RCW;
 - (xii) The board of practical nursing as established in chapter 18.78 RCW;
 - (xiii) The examining board of psychology and its disciplinary committee as established in chapter 18.83 RCW;
 - (xiv) The board of nursing as established in chapter 18.88 RCW; and

(xv) The veterinary board of governors as established in chapter 18.92 RCW.

(3) In addition to the authority to discipline license holders, the disciplining authority has the authority to grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. However, the board of chiropractic examiners has authority over issuance and denial of licenses provided for in chapter 18.25 RCW, the board of dental examiners has authority over issuance and denial of licenses provided for in RCW 18.32.040, and the board of medical examiners has authority over issuance and denial of licenses and registrations provided for in chapters 18.71 and 18.71A RCW. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered pursuant to RCW 18.130.160 by the disciplining authority.

NEW SECTION. Sec. 811. Sections 801 through 809 of this act shall constitute a new chapter in Title 18 RCW.

PART IX ENHANCED PENALTIES

Sec. 901. Section 5, chapter 14, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 146, Laws of 1988 and RCW 9A.44.050 are each amended to read as follows:

(1) A person is guilty of rape in the second degree when, under circumstances not constituting rape in the first degree, the person engages in sexual intercourse with another person:

- (a) By forcible compulsion;
- (b) When the victim is incapable of consent by reason of being physically helpless or mentally incapacitated; or
- (c) When the victim is developmentally disabled and the perpetrator is a person who is not married to the victim and who has supervisory authority over the victim.

(2) Rape in the second degree is a class ((B)) A felony.

Sec. 902. Section 5, chapter 145, Laws of 1988 and RCW 9A.44.083 are each amended to read as follows:

(1) A person is guilty of child molestation in the first degree when the person has sexual contact with another who is less than twelve years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Child molestation in the first degree is a class ((B)) A felony.

Sec. 903. Section 3, chapter 145, Laws of 1988 and RCW 9A.44.076 are each amended to read as follows:

(1) A person is guilty of rape of a child in the second degree when the person has sexual intercourse with another who is at least twelve years old

but less than fourteen years old and not married to the perpetrator and the perpetrator is at least thirty-six months older than the victim.

(2) Rape of a child in the second degree is a class ((B)) A felony.

Sec. 904. Section 9A.88.010, chapter 260, Laws of 1975 1st ex. sess. as amended by section 1, chapter 277, Laws of 1987 and RCW 9A.88.010 are each amended to read as follows:

(1) A person is guilty of indecent exposure if he intentionally makes any open and obscene exposure of his person or the person of another knowing that such conduct is likely to cause reasonable affront or alarm.

(2) Indecent exposure is a misdemeanor unless such person exposes himself to a person under the age of fourteen years in which case indecent exposure is a gross misdemeanor on the first offense and, if such person has previously been convicted under this subsection or of a sex offense as defined in RCW 9.94A.030, then such person is guilty of a class C felony punishable under chapter 9A.20 RCW.

PART X CIVIL COMMITMENT

NEW SECTION. Sec. 1001. The legislature finds that a small but extremely dangerous group of sexually violent predators exist who do not have a mental disease or defect that renders them appropriate for the existing involuntary treatment act, chapter 71.05 RCW, which is intended to be a short-term civil commitment system that is primarily designed to provide short-term treatment to individuals with serious mental disorders and then return them to the community. In contrast to persons appropriate for civil commitment under chapter 71.05 RCW, sexually violent predators generally have antisocial personality features which are unamenable to existing mental illness treatment modalities and those features render them likely to engage in sexually violent behavior. The legislature further finds that sex offenders' likelihood of engaging in repeat acts of predatory sexual violence is high. The existing involuntary commitment act, chapter 71.05 RCW, is inadequate to address the risk to reoffend because during confinement these offenders do not have access to potential victims and therefore they will not engage in an overt act during confinement as required by the involuntary treatment act for continued confinement. The legislature further finds that the prognosis for curing sexually violent offenders is poor, the treatment needs of this population are very long term, and the treatment modalities for this population are very different than the traditional treatment modalities for people appropriate for commitment under the involuntary treatment act.

NEW SECTION. Sec. 1002. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Sexually violent predator" means any person who has been convicted of or charged with a crime of sexual violence and who suffers from a

mental abnormality or personality disorder which makes the person likely to engage in predatory acts of sexual violence.

(2) "Mental abnormality" means a congenital or acquired condition affecting the emotional or volitional capacity which predisposes the person to the commission of criminal sexual acts in a degree constituting such person a menace to the health and safety of others.

(3) "Predatory" means acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization.

(4) "Sexually violent offense" means: (a) An act defined in Title 9A RCW as rape in the first degree, rape in the second degree by forcible compulsion, rape of a child in the first or second degree, statutory rape in the first or second degree, indecent liberties by forcible compulsion, indecent liberties against a child under age fourteen, incest against a child under age fourteen, or child molestation in the first or second degree; (b) any conviction for a felony offense in effect at any time prior to the effective date of this section, that is comparable to a sexually violent offense as defined in subsection (4)(a) of this section, or any federal or out-of-state conviction for a felony offense that under the laws of this state would be a sexually violent offense as defined in this subsection; or (c) any act of murder in the first or second degree, assault in the first or second degree, kidnapping in the first or second degree, burglary in the first degree, residential burglary, or unlawful imprisonment, which act, either at the time of sentencing for the offense or subsequently during civil commitment proceedings pursuant to this section, has been determined beyond a reasonable doubt to have been sexually motivated, as that term is defined in section 602 of this act; or, as described in chapter 9A.28 RCW, is an attempt, criminal solicitation, or criminal conspiracy to commit one of the felonies designated in (a), (b), or (c) of this subsection.

NEW SECTION. Sec. 1003. When it appears that: (1) The sentence of a person who has been convicted of a sexually violent offense is about to or has expired at any time in the past; (2) the term of confinement of a person found to have committed a sexually violent offense as a juvenile is about to or has expired; (3) a person who has been charged with a sexually violent offense and has been determined to be incompetent to stand trial is about to be or has been released pursuant to RCW 10.77.090(3); or (4) a person who has been found not guilty by reason of insanity of a sexually violent offense is about to be released pursuant to RCW 10.77.020(3); and it appears that the person may be a sexually violent predator, the prosecuting attorney of the county where the person was convicted or charged or the attorney general if requested by the prosecuting attorney may file a petition alleging that the person is a "sexually violent predator" and stating sufficient facts to support such allegation.

NEW SECTION. Sec. 1004. Upon the filing of a petition under section 1003 of this act, the judge shall determine whether probable cause exists to believe that the person named in the petition is a sexually violent predator. If such determination is made the judge shall direct that the person be taken into custody and the person shall be transferred to an appropriate facility for an evaluation as to whether the person is a sexually violent predator. The evaluation shall be conducted by a person deemed to be professionally qualified to conduct such an examination pursuant to rules developed by the department of social and health services. In adopting such rules, the department of social and health services shall consult with the department of health and the department of corrections.

NEW SECTION. Sec. 1005. Within forty-five days after the filing of a petition pursuant to section 1003 of this act, the court shall conduct a trial to determine whether the person is a sexually violent predator. At all stages of the proceedings under this chapter, any person subject to this chapter shall be entitled to the assistance of counsel, and if the person is indigent, the court shall appoint counsel to assist him or her. Whenever any person is subjected to an examination under this chapter, he or she may retain experts or professional persons to perform an examination on their behalf. When the person wishes to be examined by a qualified expert or professional person of his or her own choice, such examiner shall be permitted to have reasonable access to the person for the purpose of such examination, as well as to all relevant medical and psychological records and reports. In the case of a person who is indigent, the court shall, upon the person's request, assist the person in obtaining an expert or professional person to perform an examination or participate in the trial on the person's behalf. The person, the prosecuting attorney or attorney general, or the judge shall have the right to demand that the trial be before a jury. If no demand is made, the trial shall be before the court.

NEW SECTION. Sec. 1006. (1) The court or jury shall determine whether, beyond a reasonable doubt, the person is a sexually violent predator. If the state alleges that the prior sexually violent offense that forms the basis for the petition for commitment was an act that was sexually motivated as provided in section 1002(3)(c) *[1002(4)(c)] of this act, the state must prove beyond a reasonable doubt that the alleged sexually violent act was sexually motivated as defined in section 602 of this act. If the court or jury determines that the person is a sexually violent predator, the person shall be committed to the custody of the department of social and health services in a secure facility for control, care, and treatment until such time as the person's mental abnormality or personality disorder has so changed that the person is safe to be at large. Such control, care, and treatment shall be provided at a facility operated by the department of social and health services. If the court or jury is not satisfied beyond a reasonable doubt that the person is a sexually violent predator, the court shall direct the person's release.

(2) If the person charged with a sexually violent offense has been found incompetent to stand trial, and is about to or has been released pursuant to RCW 10.77.090(3), and his or her commitment is sought pursuant to subsection (1) of this section, the court shall first hear evidence and determine whether the person did commit the act or acts charged if the court did not enter a finding prior to dismissal under RCW 10.77.090(3) that the person committed the act or acts charged. The hearing on this issue must comply with all the procedures specified in this section. In addition, the rules of evidence applicable in criminal cases shall apply, and all constitutional rights available to defendants at criminal trials, other than the right not to be tried while incompetent, shall apply. After hearing evidence on this issue, the court shall make specific findings on whether the person did commit the act or acts charged, the extent to which the person's incompetence or developmental disability affected the outcome of the hearing, including its effect on the person's ability to consult with and assist counsel and to testify on his or her own behalf, the extent to which the evidence could be reconstructed without the assistance of the person, and the strength of the prosecution's case. If, after the conclusion of the hearing on this issue, the court finds, beyond a reasonable doubt, that the person did commit the act or acts charged, it shall enter a final order, appealable by the person, on that issue, and may proceed to consider whether the person should be committed pursuant to this section.

(3) The state shall comply with RCW 10.77.220 while confining the person pursuant to this chapter. The facility shall not be located on the grounds of any state mental facility or regional habilitation center because these institutions are insufficiently secure for this population.

*Reviser's note: The bracketed material corrects an erroneous reference.

NEW SECTION. Sec. 1007. Each person committed under this chapter shall have a current examination of his or her mental condition made at least once every year. The person may retain, or if he or she is indigent and so requests, the court may appoint a qualified expert or a professional person to examine him or her, and such expert or professional person shall have access to all records concerning the person. The periodic report shall be provided to the court that committed the person under this chapter.

NEW SECTION. Sec. 1008. The involuntary detention or commitment of persons under this chapter shall conform to constitutional requirements for care and treatment.

NEW SECTION. Sec. 1009. (1) If the secretary of the department of social and health services determines that the person's mental abnormality or personality disorder has so changed that the person is not likely to commit predatory acts of sexual violence if released, the secretary shall authorize the person to petition the court for release. The petition shall be served upon the court and the prosecuting attorney. The court, upon receipt of the

petition for release, shall within forty-five days order a hearing. The prosecuting attorney or the attorney general, if requested by the county, shall represent the state, and shall have the right to have the petitioner examined by an expert or professional person of his or her choice. The hearing shall be before a jury if demanded by either the petitioner or the prosecuting attorney or attorney general. The burden of proof shall be upon the prosecuting attorney or attorney general to show beyond a reasonable doubt that the petitioner's mental abnormality or personality disorder remains such that the petitioner is not safe to be at large and that if discharged is likely to commit predatory acts of sexual violence.

(2) Nothing contained in this chapter shall prohibit the person from otherwise petitioning the court for discharge without the secretary's approval. The secretary shall provide the committed person with an annual written notice of the person's right to petition the court for release over the secretary's objection. The notice shall contain a waiver of rights. The secretary shall forward the notice and waiver form to the court with the annual report. If the person does not affirmatively waive the right to petition, the court shall set a show cause hearing to determine whether facts exist that warrant a hearing on whether the person's condition has so changed that he or she is safe to be at large. The committed person shall have a right to have an attorney represent him or her at the show cause hearing but the person is not entitled to be present at the show cause hearing. If the court at the show cause hearing determines that probable cause exists to believe that the person's mental abnormality or personality disorder has so changed that the person is safe to be at large and will not engage in acts of sexual violence if discharged, then the court shall set a hearing on the issue. At the hearing, the committed person shall be entitled to be present and to the benefit of all constitutional protections that were afforded to the person at the initial commitment proceeding. The prosecuting attorney or the attorney general if requested by the county shall represent the state and shall have a right to a jury trial and to have the committed person evaluated by experts chosen by the state. The committed person shall also have the right to have experts evaluate him or her on his or her behalf and the court shall appoint an expert if the person is indigent and requests an appointment. The burden of proof at the hearing shall be upon the state to prove beyond a reasonable doubt that the committed person's mental abnormality or personality disorder remains such that the person is not safe to be at large and if released will engage in acts of sexual violence.

NEW SECTION. Sec. 1010. Nothing in this chapter shall prohibit a person from filing a petition for discharge pursuant to this chapter. However, if a person has previously filed a petition for discharge without the secretary's approval and the court determined, either upon review of the petition or following a hearing, that the petitioner's petition was frivolous or that the petitioner's condition had not so changed that he or she was safe to

be at large, then the court shall deny the subsequent petition unless the petition contains facts upon which a court could find that the condition of the petitioner had so changed that a hearing was warranted. Upon receipt of a first or subsequent petition from committed persons without the secretary's approval, the court shall endeavor whenever possible to review the petition and determine if the petition is based upon frivolous grounds and if so shall deny the petition without a hearing.

NEW SECTION. Sec. 1011. The department of social and health services shall be responsible for all costs relating to the evaluation and treatment of persons committed to their custody under any provision of this chapter. Reimbursement may be obtained by the department for the cost of care and treatment of persons committed to its custody pursuant to RCW 43.20B.330 through 43.20B.370.

NEW SECTION. Sec. 1012. In addition to any other information required to be released under this chapter, the department is authorized, pursuant to section 117 of this act, to release relevant information that is necessary to protect the public, concerning a specific sexually violent predator committed under this chapter.

NEW SECTION. Sec. 1013. Sections 1001 through 1012 of this act shall constitute a new chapter in Title 71 RCW.

PART XI BACKGROUND CHECKS

Sec. 1101. Section 1, chapter 486, Laws of 1987 as amended by section 1, chapter 90, Laws of 1989 and by section 1, chapter 334, Laws of 1989 and RCW 43.43.830 are each reenacted and amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 43.43.830 through 43.43.840.

(1) "Applicant" means ((either)):

(a) Any prospective employee who will or may have unsupervised access to children under sixteen years of age or developmentally disabled persons or vulnerable adults during the course of his or her employment or involvement with the business or organization(~~(- However, for school districts and educational service districts, prospective employee includes only noncertificated personnel))~~); or

(b) Any prospective volunteer who will have regularly scheduled unsupervised access to children under sixteen years of age, developmentally disabled persons, or vulnerable adults during the course of his or her employment or involvement with the business or organization under circumstances where such access will or may involve groups of (i) five or fewer children under twelve years of age, (ii) three or fewer children between twelve and sixteen years of age, (iii) developmentally disabled persons, or (iv) vulnerable adults.

(2) "Business or organization" means a business or organization licensed in this state, any agency of the state, or other governmental entity, that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons, vulnerable adults, or children under sixteen years of age, including school districts and educational service districts.

(3) "Civil adjudication" means a specific court finding of sexual abuse or exploitation or physical abuse in a dependency action under RCW ~~((13.34.030(2)(b)))~~ 13.34.040 or in a domestic relations action under Title 26 RCW. In the case of vulnerable adults, civil adjudication means a specific court finding of abuse or financial exploitation in a protection proceeding under chapter 74.34 RCW. It does not include administrative proceedings. The term "civil adjudication" is further limited to court findings that identify as the perpetrator of the abuse a named individual, over the age of eighteen years, who was a party to the dependency or dissolution proceeding or was a respondent in a protection proceeding in which the finding was made and who contested the allegation of abuse or exploitation.

(4) "Conviction record" means "conviction record" information as defined in RCW 10.97.030(3) relating to a crime against children or other persons committed by either an adult or a juvenile. It does not include a conviction for an offense that has been the subject of an expungement, pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or a conviction that has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence. It does include convictions for offenses for which the defendant received a deferred or suspended sentence, unless the record has been expunged according to law.

(5) ~~("Disciplinary board final decision" means any final decision issued by the disciplinary board or the director of the department of licensing for the following business or professions:~~

- ~~(a) Chiropractic;~~
- ~~(b) Dentistry;~~
- ~~(c) Dental hygiene;~~
- ~~(d) Drugless healing;~~
- ~~(e) Massage;~~
- ~~(f) Midwifery;~~
- ~~(g) Osteopathy;~~
- ~~(h) Physical therapy;~~
- ~~(i) Physicians;~~
- ~~(j) Practical nursing;~~
- ~~(k) Registered nursing;~~
- ~~(l) Psychology; and~~
- ~~(m) Real estate brokers and salesmen.~~

~~(6)) "Crime against children or other persons" means a conviction of any of the following offenses: Aggravated murder; first or second degree~~

murder; first or second degree kidnaping; first, second, or third degree assault; first, second, or third degree rape; first, second, or third degree rape of a child; first or second degree robbery; first degree arson; first degree burglary; first or second degree manslaughter; first or second degree extortion; indecent liberties; incest; vehicular homicide; first degree promoting prostitution; communication with a minor; unlawful imprisonment; simple assault; sexual exploitation of minors; first or second degree criminal mistreatment; child abuse or neglect as defined in RCW 26.44.020; first or second degree custodial interference; malicious harassment; first, second, or third degree child molestation; first or second degree sexual misconduct with a minor; first or second degree rape of a child; patronizing a juvenile prostitute; child abandonment; promoting pornography; selling or distributing erotic material to a minor; custodial assault; violation of child abuse restraining order; child buying or selling; prostitution; felony indecent exposure; or any of these crimes as they may be renamed in the future.

~~((7))~~ (6) "Crimes relating to financial exploitation" means a conviction for first, second, or third degree extortion; first, second, or third degree theft; first or second degree robbery; forgery; or any of these crimes as they may be renamed in the future.

(7) "Disciplinary board final decision" means any final decision issued by the disciplinary board or the director of the department of licensing for the following businesses or professions:

- (a) Chiropractic;
- (b) Dentistry;
- (c) Dental hygiene;
- (d) Massage;
- (e) Midwifery;
- (f) Naturopathy;
- (g) Osteopathy;
- (h) Physical therapy;
- (i) Physicians;
- (j) Practical nursing;
- (k) Registered nursing;
- (l) Psychology; and
- (m) Real estate brokers and salesmen.

(8) "Unsupervised" means not in the presence of:

(a) Another employee or volunteer from the same business or organization as the applicant; or

(b) Any relative or guardian of any of the children or developmentally disabled persons to which the applicant has access during the course of his or her employment or involvement with the business or organization.

(9) "Vulnerable adult" means a person sixty years of age or older who has the functional, mental, or physical inability to care for himself or herself or a patient in a state hospital as defined in chapter 72.23 RCW.

(10) "Financial exploitation" means the illegal or improper use of a vulnerable adult or that adult's resources for another person's profit or advantage.

(11) "Agency" means any person, firm, partnership, association, corporation, or facility which receives, provides services to, houses or otherwise cares for vulnerable adults.

Sec. 1102. Section 2, chapter 486, Laws of 1987 as amended by section 2, chapter 90, Laws of 1989 and by section 2, chapter 334, Laws of 1989 and RCW 43.43.832 are each reenacted and amended to read as follows:

(1) The legislature finds that businesses and organizations providing services to children, developmentally disabled persons, and vulnerable adults need adequate information to determine which employees or licensees to hire or engage. Therefore, the Washington state patrol criminal identification system may disclose, upon the request of a business or organization as defined in RCW 43.43.830, (~~a prospective employee's~~) an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation, but only if the victim was a vulnerable adult, adjudications of child abuse in a civil action, the issuance of a protection order against the respondent under chapter 74.34 RCW, and disciplinary board final decisions and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision. When necessary, applicants may be employed on a conditional basis pending completion of such a background investigation.

(2) The legislature also finds that the state board of education may request of the Washington state patrol criminal identification system information regarding a certificate applicant's record for convictions under subsection (1) of this section.

(3) The legislature also finds that law enforcement agencies, the office of the attorney general, prosecuting authorities, and the department of social and health services may request this same information to aid in the investigation and prosecution of child, developmentally disabled person, and vulnerable adult abuse cases and to protect children and adults from further incidents of abuse.

(4) The legislature further finds that the department of social and health services, when considering persons for state positions directly responsible for the care, supervision, or treatment of children, developmentally disabled persons, or vulnerable adults or when licensing or authorizing such persons or agencies pursuant to its authority under chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to license or regulate a facility which handles vulnerable adults, must consider the information listed in subsection (1) of this section. However, when necessary, persons may be employed on a conditional basis pending completion of the background investigation. The state personnel board shall adopt rules

to accomplish the purposes of this subsection as it applies to state employees.

Sec. 1103. Section 3, chapter 486, Laws of 1987 as amended by section 3, chapter 90, Laws of 1989 and by section 3, chapter 334, Laws of 1989 and RCW 43.43.834 are each reenacted and amended to read as follows:

(1) A business or organization shall not make an inquiry to the Washington state patrol under RCW 43.43.832 or an equivalent inquiry to a federal law enforcement agency unless the business or organization has notified the applicant who has been offered a position as an employee or volunteer, that an inquiry may be made.

(2) A business or organization shall require each applicant to disclose to the business or organization whether the applicant has been:

(a) Convicted of any crime against children or other persons;

(b) Convicted of crimes relating to financial exploitation if the victim was a vulnerable adult;

(c) Found in any dependency action under RCW ~~((13.34.030(2)(b)))~~ 13.34.040 to have sexually assaulted or exploited any minor or to have physically abused any minor;

(d) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused or exploited any minor or to have physically abused any minor;

(e) Found in any disciplinary board final decision to have sexually or physically abused or exploited any minor or developmentally disabled person or to have abused or financially exploited any vulnerable adult; or

(f) Found by a court in a protection proceeding under chapter 74.34 RCW, to have abused or financially exploited a vulnerable adult.

The disclosure shall be made in writing and signed by the applicant and sworn under penalty of perjury. The disclosure sheet shall specify all crimes against children or other persons and all crimes relating to financial exploitation as defined in RCW 43.43.830 in which the victim was a vulnerable adult.

(3) The business or organization shall pay such reasonable fee for the records check as the state patrol may require under RCW 43.43.838.

(4) The business or organization shall notify the applicant of the state patrol's response within ten days after receipt by the business or organization. The employer shall provide a copy of the response to the applicant and shall notify the applicant of such availability.

(5) The business or organization shall use this record only in making the initial employment or engagement decision. Further dissemination or use of the record is prohibited. A business or organization violating this subsection is subject to a civil action for damages.

(6) An insurance company shall not require a business or organization to request background information on any employee before issuing a policy of insurance.

(7) The business and organization shall be immune from civil liability for failure to request background information on ~~((a prospective employee or volunteer))~~ an applicant unless the failure to do so constitutes gross negligence.

Sec. 1104. Section 5, chapter 486, Laws of 1987 as amended by section 4, chapter 90, Laws of 1989 and by section 4, chapter 334, Laws of 1989 and RCW 43.43.838 are each reenacted and amended to read as follows:

(1) After January 1, 1988, and notwithstanding any provision of RCW 43.43.700 through 43.43.810 to the contrary, the state patrol shall furnish a transcript of the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or civil adjudication record pertaining to any person for whom the state patrol or the federal bureau of investigation has a record upon the written request of:

(a) The subject of the inquiry;

(b) Any business or organization for the purpose of conducting evaluations under RCW 43.43.832;

(c) The department of social and health services;

(d) Any law enforcement agency, prosecuting authority, or the office of the attorney general; or

(e) The department of social and health services for the purpose of meeting responsibilities set forth in chapter 74.15, 18.51, 18.20, or 72.23 RCW, or any later-enacted statute which purpose is to regulate or license a facility which handles vulnerable adults. However, access to conviction records pursuant to this subsection (1)(e) does not limit or restrict the ability of the department to obtain additional information regarding conviction records and pending charges as set forth in RCW 74.15.030(2)(b).

After processing the request, if the conviction record, disciplinary board final decision and any subsequent criminal charges associated with the conduct that is the subject of the disciplinary board final decision, or adjudication record shows no evidence of a crime against children or other persons or, in the case of vulnerable adults, no evidence of crimes relating to financial exploitation in which the victim was a vulnerable adult, an identification declaring the showing of no evidence shall be issued to the applicant by the state patrol and shall be issued within fourteen working days of the request. Possession of such identification shall satisfy future background check requirements for the applicant for a two-year period unless the prospective employee is any current school district employee who has applied for a position in another school district.

(2) The state patrol shall by rule establish fees for disseminating records under this section to recipients identified in subsection (1)(a) and (b) of this section. The state patrol shall also by rule establish fees for disseminating records in the custody of the national crime information center. The revenue from the fees shall cover, as nearly as practicable, the direct and

indirect costs to the state patrol of disseminating the records: PROVIDED, That no fee shall be charged to a nonprofit organization, including school districts and educational service districts, for the records check.

(3) No employee of the state, employee of a business or organization, or the business or organization is liable for defamation, invasion of privacy, negligence, or any other claim in connection with any lawful dissemination of information under RCW 43.43.830 through 43.43.840 or RCW 43.43.760.

(4) Before July 26, 1987, the state patrol shall adopt rules and forms to implement this section and to provide for security and privacy of information disseminated under this section, giving first priority to the criminal justice requirements of this chapter. The rules may include requirements for users, audits of users, and other procedures to prevent use of civil adjudication record information or criminal history record information inconsistent with this chapter.

(5) Nothing in RCW 43.43.830 through 43.43.840 shall authorize an employer to make an inquiry not specifically authorized by this chapter, or be construed to affect the policy of the state declared in chapter 9.96A RCW.

PART XII COMMUNITY ACTION

NEW SECTION. Sec. 1201. The legislature recognizes the need to increase the services available to the victims of sex offenders. The legislature also recognizes that these services are most effectively planned and provided at the local level through the combined efforts of concerned community and citizens groups, treatment providers, and local government officials. The legislature further recognizes that adequate treatment for victims is not only a matter of justice for the victim, but also a method by which additional abuse can be prevented.

The legislature intends to enhance the community-based treatment services available to the victims of sex offenders by:

- (1) Providing funding support for local treatment programs which provide services to victims of sex offenders;
- (2) Providing technical assistance and support to help communities plan for and provide treatment services; and
- (3) Providing communities and local treatment providers with opportunities to share information about successful prevention and treatment programs.

***NEW SECTION.** Sec. 1202. (1) *There is established in the office of the governor a crime victims' advocacy office to provide advocacy services to crime victims. The governor shall appoint an executive administrator for the advocacy office. The position of administrator is exempt from the civil service*

laws. The salary of the administrator shall be set by the governor in accordance with RCW 43.03.030.

(2) The crime victims' advocacy office located in the office of the governor shall solicit communities for suggestions on state practices, policies, and priorities that would help communities treat victims of sex offenders. The office shall make recommendations to the governor and to the legislature based upon its findings.

(3) The crime victims' advocacy office shall expire on July 1, 1991.

*Sec. 1202 was vetoed, see message at end of chapter.

NEW SECTION. Sec. 1203. There is established in the department of community development a grant program to enhance the funding for treating the victims of sex offenders. Activities that can be funded through this grant program are limited to those that:

- (1) Provide effective treatment to victims of sex offenders;
- (2) Increase access to and availability of treatment for victims of sex offenders, particularly if from underserved populations; and
- (3) Create or build on efforts by existing community programs, coordinate those efforts, or develop cooperative efforts or other initiatives to make the most effective use of resources to provide treatment services to these victims.

Funding priority shall be given to those applicants that represent well-established existing programs and applicants that represent new programs that are being created in geographic areas where no programs presently exist.

NEW SECTION. Sec. 1204. Applications for funding under this chapter must:

- (1) Present evidence demonstrating how the criteria in section 1201 of this act will be met and demonstrating the effectiveness of the proposal.
- (2) Contain evidence of active participation of the community and its commitment to providing an effective treatment service for victims of sex offenders through the participation of local governments, tribal governments, human service and health organizations, and treatment entities and through meaningful involvement from others, including citizen groups.

NEW SECTION. Sec. 1205. Local governments, nonprofit community groups, and nonprofit treatment providers including organizations which provide services, such as emergency housing, counseling, and crisis intervention shall, among others, be eligible for grants under the program established in section 1203 of this act.

NEW SECTION. Sec. 1206. At a minimum, grant applications must include the following:

- (1) The geographic area from which the victims to be served are expected to come;

(2) A description of the extent and effect of the needs of these victims within the relevant geographic area;

(3) An explanation of how the funds will be used, their relationship to existing services available within the community, and the need that they will fulfill;

(4) An explanation of what organizations were involved in the development of the proposal; and

(5) An evaluation methodology.

NEW SECTION. Sec. 1207. (1) Subject to funds appropriated by the legislature, the department of community development shall make awards under the grant program established by section 1203 of this act.

(2) Awards shall be made competitively based on the purposes of and criteria in this chapter.

(3) To aid the department of community development in making its determination, the department shall form a peer review committee comprised of the executive administrator for the crime victims' advocacy office and individuals who have experience in the treatment of victims of predatory violent sex offenders. The peer review committee shall advise the department on the extent to which each eligible applicant meets the purposes and criteria of this chapter. The department shall consider this advice in making awards.

(4) Activities funded under this section may be considered for funding in future years, but shall be considered under the same terms and criteria as new activities. Funding under this chapter shall not constitute an obligation by the state of Washington to provide ongoing funding.

NEW SECTION. Sec. 1208. The department of community development 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 this chapter and expend the same or any income therefrom according to the terms of the gifts, grants, or endowments.

NEW SECTION. Sec. 1209. The department of community development shall report to the legislature by January 1, 1991, regarding the operations of the grant program authorized in section 1203 of this act. The report shall include at least the following:

(1) The number of grants awarded and the amount of each grant;

(2) Identification of the recipients of grants, including the communities in which they are based;

(3) The purposes for which the grants were awarded;

(4) The success of the projects in achieving their stated goals and objectives;

(5) An assessment of the effect that the activities of this act had on encouraging and supporting coordinated treatment services;

(6) Recommendations for further funding by the state; and

(7) Recommendations regarding future operations of the program, including criteria for awarding grants.

NEW SECTION. Sec. 1210. (1) Section 1202 of this act is added to chapter 43.06 RCW.

(2) Sections 1201 and 1203 through 1208 of this act shall constitute a new chapter in Title 43 RCW.

PART XIII

TREATMENT FOR ABUSIVE PERSON REMOVED FROM HOME

NEW SECTION. Sec. 1301. A new section is added to chapter 26.44 RCW to read as follows:

The court shall require that an individual who, while acting in a parental role, has physically or sexually abused a child and has been removed from the home pursuant to a court order issued in a proceeding under chapter 13.34 RCW, prior to being permitted to reside in the home where the child resides, complete the treatment and education requirements necessary to protect the child from future abuse. The court may require the individual to continue treatment as a condition for remaining in the home where the child resides.

The department of social and health services or supervising agency shall be responsible for advising the court as to appropriate treatment and education requirements, providing referrals to the individual, monitoring and assessing the individual's progress, informing the court of such progress, and providing recommendations to the court.

The person removed from the home shall pay for these services according to a schedule established by the department of social and health services. This schedule shall be based on the individual's ability to pay.

PART XIV

MISCELLANEOUS

NEW SECTION. Sec. 1401. Since child maltreatment cases often involve criminal offenses such as physical abuse, sexual abuse, and sexual exploitation by a family member, many such cases should be investigated by law enforcement agencies as well as child protective services agencies, and criminally prosecuted. A pilot project located in two counties shall be established for the joint investigation of child abuse and sexual assault cases by a law enforcement officer trained in gathering physical evidence and other investigative procedures, and a child protective services case worker skilled in interpreting psychological evidence and interviewing child victims in a sensitive manner.

The pilot project shall be conducted in the counties of King and Spokane from July 1, 1990, through June 30, 1991. The department of social and health services and participating law enforcement agencies shall report findings and recommendations to the senate committee on law and

justice and the house of representatives judiciary committee by December 1, 1991.

The pilot project shall include the following elements:

(1) Joint training for law enforcement and child protective services staff in the investigation and assessment of reports of child maltreatment. The training programs shall be conducted jointly by the involved agencies.

(2) A law enforcement officer shall be teamed with a child protective services worker for the investigation of specified incidents.

(3) When the law enforcement agency receives a report of suspected physical abuse, neglect, sexual abuse, or other sexual exploitation of a child by the child's parent, guardian, custodian, or person otherwise responsible for the child's welfare the agency shall notify the child protective services agency immediately.

(4) When the child protective services agency receives a report of suspected physical assault, sexual offense, or sexual exploitation committed upon a child by anyone, whether or not the person is the child's parent, guardian, custodian, or otherwise responsible for the child's welfare, the agency shall notify the law enforcement agency immediately.

(5) The law enforcement agency and the child protective services agency shall jointly develop a procedure to determine when investigations of suspicious child deaths, physical abuse, neglect affecting the child's health, sexual abuse, and sexual exploitation of a child committed by the child's parent, guardian, custodian, or person otherwise responsible for the child's welfare shall be jointly investigated by the investigating teams authorized by this section.

NEW SECTION. Sec. 1402. (1) The department of social and health services through its division of children and family services shall provide, subject to available funds, comprehensive sexual assault services to sexually abused children. The department shall provide treatment by licensed professionals on a one-to-one or group basis as may be deemed appropriate.

(2) Funds appropriated under this section shall be provided solely for contracts or direct purchase of specific treatment services from community organizations and private service providers for child victims of sexual assault and sexual abuse. Funds shall be disbursed through the request for proposal or request for qualifications process.

(3) As part of the request for proposal or request for qualifications process the department of social and health services shall ensure that there be no duplication of services with existing programs including the crime victims' compensation program as provided in chapter 7.68 RCW. The department shall also ensure that victims exhaust private insurance benefits available to the child victim before providing services to the child victim under this section.

NEW SECTION. Sec. 1403. The department of social and health services through its division of children and family services shall, subject to

available funds, establish a system of early identification and referral to treatment of child victims of sexual assault or sexual abuse. The system shall include schools, physicians, sexual assault centers, domestic violence centers, child protective services, and foster parents. A mechanism shall be developed to identify communities that have experienced success in this area and share their expertise and methodology with other communities state-wide.

NEW SECTION. Sec. 1404. The index and part headings used in this act do not constitute any part of the law.

NEW SECTION. Sec. 1405. 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. 1406. (1) Sections 101 through 131, 401 through 409, 501 through 504, 606, 707 and 708, 801 through 810, 1101 through 1104, 1201 through 1210, and 1401 through 1403 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 201 through 203, 301 through 305, 701 through 706, and 901 through 904 shall take effect July 1, 1990, and shall apply to crimes committed on or after July 1, 1990.

(3) Sections 1001 through 1012 shall take effect July 1, 1990.

(4) Section 1301 shall take effect July 1, 1991.

(5) Sections 601 through 605, for purposes of sentencing adult or juvenile offenders shall take effect July 1, 1990, and shall apply to crimes or offenses committed on or after July 1, 1990. For purposes of defining a "sexually violent offense" pursuant to section 1002(4) of this act, sections 601 through 605 of this act shall take effect July 1, 1990, and shall apply to crimes committed on, before, or after July 1, 1990.

Passed the Senate February 23, 1990.

Passed the House February 23, 1990.

Approved by the Governor February 28, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State February 28, 1990.

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

"I am returning herewith, without my approval as to section 1202, Engrossed Second Substitute Senate Bill No. 6259, entitled:

"AN ACT Relating to criminal offenders."

Engrossed Second Substitute Senate Bill No. 6259 is among the most significant legislation enacted in Washington State. Stemming from brutally violent crimes that recently rocked our state, this measure represents a comprehensive, balanced, and effective approach to addressing sexual violence in our communities.

In order to ensure that careful deliberation was given to changes in the state's criminal justice system's response to violent predatory crimes, I authorized the creation of the Governor's Task Force on Community Protection. The Task Force was able to reach broad agreement on the elements of this bill by listening not only to professionals who work with offenders and victims, but also to citizens around the state who had been touched by crime.

One of the Task Force's recommendations was the creation of a crime victims' advocate with programmatic responsibilities within the Department of Community Development. Section 1202 places the crime victims' advocate within the Governor's Office. A grant program is created separately within the Department of Community Development.

I endorse the creation of a crime victims' advocate to review and coordinate victim's programs. To prevent fragmentation, however, I believe the position should be located in an agency with program responsibilities.

For these reasons, I am vetoing section 1202 of Engrossed Second Substitute Senate Bill No. 6259. In concert with this veto, I am promulgating an Executive Order establishing the office of crime victims' advocacy within the Department of Community Development.*

CHAPTER 4

[Senate Bill No. 6200]

TASK FORCE ON PORTS AND LOCAL ASSOCIATE DEVELOPMENT ORGANIZATIONS—FINAL REPORT DATE

AN ACT Relating to the extension of the final report date and expiration date of the task force on ports and local associate development organizations; and amending section 9, chapter 425, Laws of 1989 (uncodified).

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

Sec. 1. Section 9, chapter 425, Laws of 1989 (uncodified) is amended to read as follows:

(1) There is created a temporary task force for purposes of examining cooperative measures available to ports and local associate development organizations to improve coordination and increase efficiency, and examining methods to build local capacity by implementing recommendations contained in the 1989 report of the economic development board.

(2) The task force shall study and make recommendations in the following areas:

(a) The feasibility of joint marketing efforts to advance the goals and mission of ports and local associate development organizations;

(b) Measures available to enhance the economic development and trade development mission of ports and local associate development organizations, including the establishment of joint trade offices and joint efforts to assist businesses to export;

(c) Opportunities to enhance the financial base of ports and local associate development organizations independent of additional taxation measures;

(d) Opportunities for ports and local associate development organizations to enter into contracts to assist local economic development efforts and build local capacity; and

(e) Such other areas as the task force determines are relevant to the mission of the task force: **PROVIDED**, That the task force shall not consider, nor shall its findings or recommendations include, matters relating to rates, rate setting, or price-fixing by Washington ports or local associate development organizations.

(3) The task force shall consist of the following twenty members:

(a) A member of the governing board of each county-wide port district in a class A or AA county selected by the respective port commissions;

(b) The executive director of each county-wide port district in a class A or AA county;

(c) A member of a governing board of a port district which is located east of the Cascade mountains, appointed by the governor;

(d) A member of a governing board of a port district which has an industrial area and a marine terminal, appointed by the governor;

(e) An executive director of a port district which is located east of the Cascade mountains, appointed by the governor;

(f) An executive director of a port district which has an industrial area and a marine terminal, appointed by the governor;

(g) Four members from the general public representing business, labor, and community organizations, appointed by the governor;

(h) Two executive directors of local associate development organizations, one of which is located east of the Cascade mountains, appointed by the governor;

(i) The directors, or the directors' designees, of the department of community development and the department of trade and economic development to serve as nonvoting members; and

(j) A representative from each of the four legislative caucuses. The president of the senate shall appoint the two senate members and the speaker of the house of representatives shall appoint the two house members. The legislators shall serve as nonvoting members.

(4) The governor shall designate the chair of the task force.

(5) The department of trade and economic development and the department of community development shall provide staff assistance as required.

(6) Task force members may be reimbursed for necessary travel expenses in accordance with RCW 43.03.050 and 43.03.060.

(7) The task force shall submit a preliminary report by January 1, 1990, and its final findings and recommendations to the legislature by January 1, ((1990)) 1991.

(8) The task force shall expire on March 1, (~~1990~~) 1991.

Passed the Senate January 31, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 5

[Substitute Senate Bill No. 6531]

PORT DISTRICT ROAD IMPROVEMENTS

AN ACT Relating to port district road improvements; and adding new sections to chapter 53.08 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 53.08 RCW to read as follows:

Any port district in this state, acting through its commission, may expend port funds toward construction, upgrading, improvement, or repair of any street, road, or highway that serves port facilities.

NEW SECTION. Sec. 2. A new section is added to chapter 53.08 RCW to read as follows:

The funds authorized by section 1 of this act may be expended by the port commission in conjunction with any plan of improvements undertaken by the state of Washington, an adjoining state, or a county or municipal government of either, in combination with any of said public entities, and without regard to whether expenditures are made for a road located within the state of Washington or an adjoining state.

Passed the Senate February 9, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 6

[Senate Bill No. 6210]

RADIOLOGIC TECHNOLOGISTS—REGULATION OF

AN ACT Relating to radiologic technologists; and amending RCW 43.131.349 and 43.131.350.

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

Sec. 1. Section 18, chapter 412, Laws of 1987 and RCW 43.131.349 are each amended to read as follows:

The regulation of radiologic technologists under chapter 18.84 RCW shall be terminated on June 30, (~~1990~~) 1995, as provided in RCW 43.131.350.

Sec. 2. Section 19, chapter 412, Laws of 1987 and RCW 43.131.350 are each amended to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, ~~((1991))~~ 1996:

- (1) Section 1, chapter 412, Laws of 1987 and RCW 18.84.010;
- (2) Section 2, chapter 412, Laws of 1987 and RCW 18.84.030;
- (3) Section 3, chapter 412, Laws of 1987 and RCW 18.84.020;
- ~~((4))~~ ~~Section 4, chapter 412, Laws of 1987 and RCW 18.84.040;~~
- ~~((5))~~ Section 5, chapter 412, Laws of 1987 and RCW 18.84.040;
- ~~((6))~~ (5) Section 6, chapter 412, Laws of 1987 and RCW 18.84.050;
- ~~((7))~~ (6) Section 7, chapter 412, Laws of 1987 and RCW 18.84.060;
- ~~((8))~~ (7) Section 8, chapter 412, Laws of 1987 and RCW 18.84.070;
- ~~((9))~~ (8) Section 9, chapter 412, Laws of 1987 and RCW 18.84.080;
- ~~((10))~~ (9) Section 10, chapter 412, Laws of 1987 and RCW 18.84.090;
- ~~((11))~~ (10) Section 11, chapter 412, Laws of 1987 and RCW 18.84.100;
- ~~((12))~~ (11) Section 12, chapter 412, Laws of 1987 and RCW 18.84.110; and
- ~~((13))~~ (12) Section 13, chapter 412, Laws of 1987 and RCW 18.84.900.

Passed the Senate February 6, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 7

[Substitute Senate Bill No. 6463]

SERVICES AND ACTIVITIES FEES BUDGETS—STUDENT PARTICIPATION

AN ACT Relating to services and activities fee programs; and amending RCW 28B.15.045.

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

Sec. 1. Section 2, chapter 80, Laws of 1980 as amended by section 2, chapter 91, Laws of 1986 and RCW 28B.15.045 are each amended to read as follows:

The legislature recognizes that institutional governing boards have a responsibility to manage and protect institutions of higher education. This responsibility includes ensuring certain lawful agreements for which revenues from services and activities fees have been pledged. Such lawful agreements include, but are not limited to, bond covenant agreements and other contractual obligations. Institutional governing boards are also expected to protect the stability of programs that benefit students.

The legislature also recognizes that services and activities fees are paid by students for the express purpose of funding student services and programs. It is the intent of the legislature that governing boards ensure that students have a strong voice in recommending budgets for services and activities fees. The boards of trustees and the boards of regents of the respective institutions of higher education shall adopt guidelines governing the establishment and funding of programs supported by services and activities fees. Such guidelines shall ((spell-out)) stipulate procedures for budgeting and expending services and activities fee revenue. Any such guidelines shall be consistent with the following provisions:

(1) Student representatives from the services and activities fee committee and representatives of the college or university administration shall have an opportunity to address the board before board decisions on services and activities fee budgets and dispute resolution actions are made;

(2) Members of the governing boards shall adhere to the principle that services and activities fee committee desires be given priority consideration on funding items that do not fall into the categories of preexisting contractual obligations, bond covenant agreements, or stability for programs affecting students;

(3) Responsibility for proposing to the administration and the governing board program priorities and budget levels for that portion of program budgets that derive from services and activities fees shall reside with a services and activities fee committee, on which students shall hold at least a majority of the voting memberships, such student members ((to)) shall represent diverse student interests, and shall be recommended by the student government association or its equivalent. The chairperson of the services and activities fee committee shall be selected by the members of that committee. The governing board shall insure that the services and activities fee committee provides an opportunity for all viewpoints to be heard at a public meeting during its consideration of the funding of student programs and activities.

~~((2))~~ (4) The services and activities fee committee shall evaluate existing and proposed programs and submit budget recommendations for the expenditure of those services and activities fees with supporting documents simultaneously to the college or university ((administration, and shall submit informational copies of such to the)) governing board and administration.

~~((3))~~ (5) The college or university administration shall review the services and activities fee committee budget recommendations and publish a written response to the services and activities fee committee ((recommendations)). This response shall outline potential areas of difference between the

committee recommendations and the administration's proposed budget recommendations. This response, with supporting documentation, shall be submitted to the services and activities fee committee ~~((and the governing board))~~ in a timely manner to allow adequate consideration.

~~((4))~~ (6)(a) In the event of a dispute or disputes involving the services and activities fee committee recommendations, the college or university administration shall meet with the services and activities fee committee in a good faith effort to resolve such dispute or disputes prior to submittal of final recommendations to the governing board.

~~((5))~~ ~~Before adoption of the final budget the governing board shall address areas of difference between any committee recommendations and the administration's budget recommendations presented for adoption by the board. A student representative of the services and activities fee committee shall be given the opportunity to reasonably address the governing board concerning any such differences:~~

~~(6))~~ (b) If said dispute is not resolved within fourteen days, a dispute resolution committee shall be convened by the chair of the services and activities fee committee within fourteen days.

(7) The dispute resolution committee shall be selected as follows: The college or university administration shall appoint two nonvoting advisory members; the governing board shall appoint three voting members; and the services and activities fee committee chair shall appoint three student members of the services and activities fee committee who will have a vote, and one student representing the services and activities fee committee who will chair the dispute resolution committee and be nonvoting. The committee shall meet in good faith, and settle by vote any and all disputes. In the event of a tie vote, the chair of the dispute resolution committee shall vote to settle the dispute.

(8) The governing board may take action on those portions of the services and activities fee budget not in dispute in accordance with the customary budget approval timeline established by the board. The governing board shall consider the results, if any, of the dispute resolution committee and shall take action.

(9) Services and activities fees and revenues generated by programs and activities funded by such fees shall be deposited and expended through the office of the chief fiscal officer of the institution.

~~((7))~~ (10) Services and activities fees and revenues generated by programs and activities funded by such fees shall be subject to the applicable policies, regulations, and procedures of the institution and the budget and accounting act, chapter 43.88 RCW.

~~((8))~~ (11) All information pertaining to services and activities fees budgets shall be made available to interested parties.

~~((9))~~ (12) With the exception of any funds needed for bond covenant obligations, once the budget for expending service and activities fees is approved by the governing board, funds shall not be shifted from funds budgeted for associated students or departmentally related categories or the reserve fund until the administration provides written justification to the services and activities fee committee and the governing board, or the governing board gives its express approval~~(, or the recognized student governing organization gives its express approval)~~. In the event of a fund transfer dispute among the services and activities fee committee, the administration, or the governing board, said dispute shall be resolved pursuant to subsections (6)(b), (7), and (8) of this section.

~~((10))~~ (13) Any service and activities fees collected which exceed initially budgeted amounts are subject to subsections (1)~~((2), (3), and (9))~~ through (10) and (12) of this section.

Passed the Senate February 8, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 8

[Substitute Senate Bill No. 6594]

DEPARTMENT OF RETIREMENT SYSTEMS—ADMINISTRATION OF SYSTEMS

AN ACT Relating to administration of the department of retirement systems; amending RCW 41.50.110 and 41.40.330; adding a new section to chapter 41.50 RCW; adding a new section to Title 28A RCW; creating new sections; and repealing RCW 41.26.085.

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

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

(1) It is important that members of the retirement system are informed about the amount of service credit they have earned. Untimely and inaccurate reporting by employers hampers the department's ability to inform members of the service credit they have earned;

(2) Requiring a transfer of funds from the retirement accounts of members of the public employees' retirement system and the law enforcement officers' and fire fighters' retirement system to the expense funds of those systems does not represent added revenue to the systems but is instead a transfer from the trust fund to the expense fund that causes administrative costs and results in a loss to the system or to the member; and

(3) A standardized time period for school administrator contracts and a prohibition against retroactive revision of those contracts is needed to prevent potential abuses of the average final compensation calculation process.

NEW SECTION. Sec. 2. A new section is added to chapter 41.50 RCW to read as follows:

(1) The department shall annually notify each member of each retirement system listed in RCW 41.50.030 of his or her:

- (a) Service credit accumulated in the preceding calendar year; and
- (b) Total service credit accumulated.

(2) The department shall begin notifying members under this section no later than October 1, 1993. The department shall initially concentrate on auditing members who are within five years of being eligible for service retirement.

(3) The department shall adopt rules implementing this section.

Sec. 3. Section 8, chapter 249, Laws of 1979 ex. sess. and RCW 41.50.110 are each amended to read as follows:

(1) Notwithstanding any provision of law to the contrary, the retirement system expense fund is hereby redesignated as the department of retirement systems expense fund from which shall be paid the expenses of the administration of the department and the expenses of administration of the retirement systems created in chapters 2.10, 2.12, 41.26, 41.32, 41.40, and 43.43 RCW.

~~(2) ((On July 1, 1979, all funds credited for administrative expenses in the various retirement systems under the department's authority shall be transferred to the retirement systems expense fund, and all receivables due and payable to the various retirement systems for administrative expenses of those systems shall be due and payable to the retirement systems expense fund. Separate system by system disbursement accountability shall not be required. The retirement system expense fund shall assume all liabilities of the various prior retirement systems administrative expense funds effective with the date of transfer. The director may continue to collect administrative expense revenue during the 1979-81 biennium under currently prescribed procedures if it is found to be in the best interest of the department. The administrative expense collections shall be placed in the department of retirement systems expense fund as provided herein.~~

~~(3))~~ The director may adjust the expense fund contribution rate for each system at any time when necessary to reflect unanticipated costs or savings in administering the department.

(3) All employers shall pay a standard fee to the department to cover the cost of administering the system. An employer who fails to submit timely and accurate reports to the department may be assessed an additional fee related to the increased costs incurred by the department in processing the deficient reports. Fees paid under this subsection shall be deposited in the retirement system expense fund.

(a) Every six months the department shall determine the amount of an employer's fee by reviewing the timeliness and accuracy of the reports submitted by the employer in the preceding six months. If those reports were

not both timely and accurate the department may prospectively assess an additional fee under this subsection.

(b) An additional fee assessed by the department under this subsection shall not exceed fifty percent of the standard fee.

(c) The department shall adopt rules implementing this section.

Sec. 4. Section 34, chapter 274, Laws of 1947 as last amended by section 3, chapter 268, Laws of 1986 and RCW 41.40.330 are each amended to read as follows:

(1) ~~Each ((employee who is a member of the retirement system shall contribute five percent of his total compensation earnable. PROVIDED; HOWEVER, That a department of retirement systems expense fund contribution of two dollars and fifty cents per annum shall be transferred in semiannual payments of one dollar and twenty-five cents from each employee account balance in the employees' savings fund to the department of retirement systems expense fund, as set forth in this section. On and after July 1, 1973, each))~~ employee who is a member of the retirement system shall contribute six percent of his or her total compensation earnable. Effective January 1, 1987, however, no contributions are required for any calendar month in which the member is not granted service credit. The officer responsible for making up the payroll shall deduct from the compensation of each member, on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she became a member of the retirement system the contribution as provided by this section.

(2) Any member may, pursuant to regulations formulated from time to time by the ~~((board))~~ department, provide for himself or herself, by means of an increased rate of contribution to his or her account in the employees' savings fund, an increased prospective retirement allowance pursuant to RCW 41.40.190 and 41.40.185.

(3) The officer responsible for making up the payroll shall deduct from the compensation of each member covered by the provisions of RCW 41.40.190(5) and 41.40.185(4) on each and every payroll of such member for each and every payroll period subsequent to the date on which he or she thereafter becomes a member of the retirement system, an amount equal to seven and one-half percent of such member's compensation earnable.

NEW SECTION. Sec. 5. Section 3, chapter 216, Laws of 1971 ex. sess., section 5, chapter 131, Laws of 1972 ex. sess. and RCW 41.26.085 are each repealed.

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

Employment contracts entered into between an employer and a superintendent, or administrator as defined in RCW 28A.67.073, under RCW 28A.58.137, 28A.58.099, or 28A.67.070:

(1) Shall end no later than June 30th of the calendar year that the contract expires except that, a contract entered into after June 30th of a given year may expire during that same calendar year; and

(2) Shall not be revised or entered into retroactively.

NEW SECTION. Sec. 7. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1990, in the supplemental omnibus appropriations act, this act shall be null and void.

Passed the Senate February 10, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 9

[Senate Bill No. 6558]

DRIVERS' LICENSE—WAIVER OF DRIVING EXAMINATION WHEN VALID OUT-OF-STATE LICENSE SURRENDERED

AN ACT Relating to the examination for the renewal of a driver's license; and amending RCW 46.20.120.

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

Sec. 1. Section 46.20.120, chapter 12, Laws of 1961 as last amended by section 2, chapter 88, Laws of 1988 and RCW 46.20.120 are each amended to read as follows:

No new driver's license may be issued and no previously issued license may be renewed until the applicant therefor has successfully passed a driver licensing examination(~~(- PROVIDED, That))~~. However, the department may waive all or any part of the examination of any person applying for the renewal of a driver's license except when the department determines that an applicant for a driver's license is not qualified to hold a driver's license under this title. The department may also waive the actual demonstration of the ability to operate a motor vehicle by a person who surrenders a valid driver's license issued by the person's previous home state and who is otherwise qualified to be licensed. For a new license examination a fee of seven dollars shall be paid by each applicant, in addition to the fee charged for issuance of the license. A new license is one issued to a driver who has not been previously licensed in this state or to a driver whose last previous Washington license has been expired for more than four years.

Any person renewing his or her driver's license more than sixty days after the license has expired shall pay a penalty fee of ten dollars in addition to the renewal fee under RCW 46.20.181. The penalty fee shall be deposited in the highway safety fund.

Any person who is outside the state at the time his or her driver's license expires or who is unable to renew the license due to any incapacity

may renew the license within sixty days after returning to this state or within sixty days after the termination of any such incapacity without the payment of the penalty fee.

The department shall provide for giving examinations at places and times reasonably available to the people of this state.

Passed the Senate February 8, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 10

[Senate Bill No. 6510]

TELECOMMUNICATIONS COMPANIES—COMPETITIVE CLASSIFICATION PETITIONS—SUBMISSION

AN ACT Relating to registration of telecommunication companies; and amending RCW 80.36.350.

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

Sec. 1. Section 7, chapter 450, Laws of 1985 and RCW 80.36.350 are each amended to read as follows:

Each telecommunications company not operating under tariff in Washington on January 1, 1985, shall register with the commission before beginning operations in this state. The registration shall be on a form prescribed by the commission and shall contain such information as the commission may by rule require, but shall include as a minimum the name and address of the company; the name and address of its registered agent, if any; the name, address, and title of each officer or director; its most current balance sheet; its latest annual report, if any; and a description of the telecommunications services it offers or intends to offer.

The commission may require as a precondition to registration the procurement of a performance bond sufficient to cover any advances or deposits the telecommunications company may collect from its customers, or order that such advances or deposits be held in escrow or trust.

The commission may deny registration to any telecommunications company which:

- (1) Does not provide the information required by this section;
- (2) Fails to provide a performance bond, if required;
- (3) Does not possess adequate financial resources to provide the proposed service; or
- (4) Does not possess adequate technical competency to provide the proposed service.

The commission shall take action to approve or issue a notice of hearing concerning any application for registration within thirty days after receiving the application. The commission may approve an application with or

without a hearing. The commission may deny an application after a hearing.

A telecommunications company may also submit a petition for competitive classification under RCW 80.36.310 at the time it applies for registration. The commission may act on the registration application and the competitive classification petition at the same time.

Passed the Senate February 2, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 11

[Substitute Senate Bill No. 6572]

TELECOMMUNICATIONS FRAUD

AN ACT Relating to fraud in obtaining telecommunications services; amending RCW 9.45.240 and 9.26A.090; adding a new section to chapter 9.26A RCW; adding a new section to Title 7 RCW; recodifying RCW 9.45.180, 9.45.190, and 9.45.240; and prescribing penalties.

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

NEW SECTION. Sec. 1. A new section is added to chapter 9.26A RCW to read as follows:

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

(1) "Access device" shall have the same meaning as that contained in RCW 9A.56.010.

(2) "Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device, but does not mean an automated typewriter or typesetter, portable hand held calculator, or other similar device.

(3) "Computer trespass" shall have the same meaning as that contained in chapter 9A.52 RCW.

(4) "Credit card number" means the card number or coding appearing on a credit card or other form of authorization, including an identification card or plate issued to a person by any telecommunications provider that permits the person to whom it has been issued to obtain telecommunications service on credit. The term includes the number or description of the card or plate, even if the card or plate itself is not produced at the time the telecommunications service is obtained.

(5) "Publish" means the communication or dissemination of information to any one or more persons: (a) Orally, in person, or by telephone, radio, or television; (b) in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article,

or book; or (c) electronically, including by the use of recordings, computer networks, bulletin boards, or other means of electronic storage and retrieval.

(6) "Telecommunications" shall have the same meaning as that contained in RCW 80.04.010 and includes telecommunications service that originates, terminates, or both originates and terminates in this state.

(7) "Telecommunications company" shall have the same meaning as that contained in RCW 80.04.010.

(8) "Telecommunications device" means any operating procedure or code, instrument, apparatus, or equipment designed or adapted for a particular use, and which is intended or can be used in violation of this chapter, and includes, but is not limited to, computer hardware, software, and programs; electronic mail system; voice mail system; private branch exchange; or any other means of facilitating telecommunications service.

(9) "Telephone company" means any local exchange company, as defined in RCW 80.04.010.

Sec. 2. Section 1, chapter 114, Laws of 1955 as last amended by section 1, chapter 252, Laws of 1981 and RCW 9.45.240 are each amended to read as follows:

(1) Every person who, with intent to evade the provisions of any order or rule of the Washington utilities and transportation commission or of any tariff, (~~(rule, or regulation lawfully filed with)~~) price list, contract, or any other filing lawfully submitted to said commission by any telephone ((or)), telegraph, or telecommunications company, or with intent to defraud, obtains telephone ((or)), telegraph, or telecommunications service from any telephone ((or)), telegraph, or telecommunications company through: (a) The use of a false or fictitious name or telephone number ((or)); (b) the unauthorized use of the name or telephone number of another((, or through)); (c) the physical or electronic installation of, rearrangement of, or tampering with any equipment, or use of a telecommunications device; (d) the commission of computer trespass; or (e) any other trick, deceit, or fraudulent device, shall be guilty of a misdemeanor. If the value of the telephone ((or)), telegraph, or telecommunications service ((which)) that any person obtains in violation of this section during a period of ninety days exceeds:

(a) Fifty dollars in the aggregate, then such person shall be guilty of a gross misdemeanor;

(b) Two hundred fifty dollars in the aggregate, then such person shall be guilty of a class C felony.

However, for any act ((which)) that constitutes a violation of both this subsection and subsection (2) of this section the provisions of subsection (2) of this section shall be exclusive.

(2) Every person who:

(a) Makes, possesses, sells, gives, or otherwise transfers to another ((an instrument, apparatus, or)) a telecommunications device with intent to use

it or with knowledge or reason to believe it is intended to be used to avoid any lawful telephone or telegraph toll charge or to conceal the existence or place of origin or destination of any telephone or telegraph message; or

(b) Sells, gives, or otherwise transfers to another plans or instructions for making or assembling ~~((an instrument, apparatus, or))~~ a telecommunications device described in subparagraph (a) of this subsection with knowledge or reason to believe that ~~((they))~~ the plans may be used to make or assemble such ~~((instrument, apparatus, or))~~ device shall be guilty of a felony.

Sec. 3. Section 1, chapter 160, Laws of 1974 ex. sess. and RCW 9.26A.090 are each amended to read as follows:

Every person who sells, rents, lends, gives, advertises for sale or rental, or publishes the credit card number ~~((or code))~~ of an existing, canceled, revoked, expired, or nonexistent telephone company credit card, or the numbering or coding ~~((which))~~ that is employed in the issuance of telephone company credit cards or access devices, with the intent that it be used or with knowledge or reason to believe that it will be used to avoid the payment of any lawful charge, shall be guilty of a gross misdemeanor. ~~((As used in this section, "publishes" means the communication or dissemination of information to any one or more persons, either orally, in person or by telephone, radio or television, or in a writing of any kind, including without limitation a letter or memorandum, circular or handbill, newspaper or magazine article, or book:))~~

NEW SECTION. Sec. 4. A new section is added to Title 7 RCW to read as follows:

(1) Whenever it appears that any person is engaged in or about to engage in any act that constitutes or will constitute a violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act) or 9.26A.090, the prosecuting attorney, a telecommunications company, or any person harmed by an alleged violation of section 2 or 3 of this act may initiate a civil proceeding in superior court to enjoin such violation, and may petition the court to issue an order for the discontinuance of the specific telephone service being used in violation of section 2 or 3 of this act.

(2) An action under this section shall be brought in the county in which the unlawful act or acts are alleged to have taken place, and shall be commenced by the filing of a verified complaint, or shall be accompanied by an affidavit.

(3) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or about to engage in any act that constitutes a violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act) or 9.26A.090, the court may issue a temporary restraining order to abate and prevent the continuance or recurrence of the act. The court may direct the sheriff to seize and retain until further order of the court any device that is being used in violation of RCW 9.26A.____

(RCW 9.45.240 as recodified by this act) or 9.26A.090. All property seized pursuant to the order of the court shall remain in the custody of the court.

(4) The court may issue a permanent injunction to restrain, abate or prevent the continuance or recurrence of the violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act) or 9.26A.090. The court may grant declaratory relief, mandatory orders, or any other relief deemed necessary to accomplish the purposes of the injunction. The court may retain jurisdiction of the case for the purpose of enforcing its orders.

(5) If it is shown to the satisfaction of the court, either by verified complaint or affidavit, that a person is engaged in or is about to engage in any act that constitutes a violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act) or 9.26A.090, the court may issue an order which shall be promptly served upon the person in whose name the telecommunications device is listed, requiring the party, within a reasonable time, to be fixed by the court, from the time of service of the petition on said party, to show cause before the judge why telephone service should not promptly be discontinued. At the hearing the burden of proof shall be on the complainant.

(6) Upon a finding by the court that the telecommunications device is being used or has been used in violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act), the court may issue an order requiring the telephone company which is rendering service over the device to disconnect such service. Upon receipt of such order, which shall be served upon an officer of the telephone company by the sheriff or deputy of the county in which the telecommunications device is installed, the telephone company shall proceed promptly to disconnect and remove such device and discontinue all telephone service until further order of the court, provided that the telephone company may do so without breach of the peace or trespass.

(7) The telecommunications company that petitions the court for the removal of any telecommunications device under this section shall be a necessary party to any proceeding or action arising out of or under RCW 9.26A.____ (RCW 9.45.240 as recodified by this act).

(8) No telephone company shall be liable for any damages, penalty, or forfeiture, whether civil or criminal, for any legal act performed in compliance with any order issued by the court.

(9) Property seized pursuant to the direction of the court that the court has determined to have been used in violation of RCW 9.26A.____ (RCW 9.45.240 as recodified by this act) shall be forfeited after notice and hearing. The court may remit or mitigate the forfeiture upon terms and conditions as the court deems reasonable if it finds that such forfeiture was incurred without gross negligence or without any intent of the petitioner to violate the law, or it finds the existence of such mitigating circumstances as to justify the remission or the mitigation of the forfeiture. In determining whether to remit or mitigate forfeiture, the court shall consider losses that

may have been suffered by victims as the result of the use of the forfeited property.

NEW SECTION. Sec. 5. RCW 9.45.180, 9.45.190, and 9.45.240 are each recodified as sections in chapter 9.26A RCW.

NEW SECTION. Sec. 6. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 8, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 12

[Substitute Senate Bill No. 6573]

ENERGY FACILITY SITE EVALUATION COUNCIL—ADMINISTRATIVE SUPPORT FOR

AN ACT Relating to the administration of the energy facility site evaluation council; amending RCW 43.21F.035, 43.21F.045, 80.50.030, and 80.50.040; creating new sections; and providing an effective date.

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

Sec. 1. Section 3, chapter 295, Laws of 1981 and RCW 43.21F.035 are each amended to read as follows:

The Washington state energy office is hereby created as an agency of state government, responsible to the governor and the legislature for carrying out the purposes of this chapter. The director shall be appointed by the governor with the consent of the senate and shall serve at the pleasure of the governor. The salary of the director shall be determined pursuant to RCW 43.03.040. The director shall employ such personnel as are necessary to implement this chapter and chapter 80.50 RCW. The employment of personnel shall be in accordance with chapter 41.06 RCW.

Sec. 2. Section 4, chapter 295, Laws of 1981 as amended by section 29, chapter 505, Laws of 1987 and RCW 43.21F.045 are each amended to read as follows:

The energy office shall have the following duties:

(1) The office shall prepare and update contingency plans for implementation in the event of energy shortages or emergencies. The plans shall conform to chapter 43.21G RCW and shall include procedures for determining when these shortages or emergencies exist, the state officers and agencies to participate in the determination, and actions to be taken by various agencies and officers of state government in order to reduce hardship and maintain the general welfare during these emergencies. The office

shall coordinate the activities undertaken pursuant to (~~the~~ ~~this~~) this subsection with other persons. The components of plans that require legislation for their implementation shall be presented to the legislature in the form of proposed legislation at the earliest practicable date. The office shall report to the governor and the legislature on probable, imminent, and existing energy shortages, and shall administer energy allocation and curtailment programs in accordance with chapter 43.21G RCW.

(2) The office shall establish and maintain a central repository in state government for collection of existing data on energy resources, including:

(a) Supply, demand, costs, utilization technology, projections, and forecasts;

(b) Comparative costs of alternative energy sources, uses, and applications; and

(c) Inventory data on energy research projects in the state conducted under public and/or private auspices, and the results thereof.

(3) The office shall coordinate federal energy programs appropriate for state-level implementation, carry out such energy programs as are assigned to it by the governor or the legislature, and monitor federally funded local energy programs as required by federal or state regulations.

(4) The office shall develop energy policy recommendations for consideration by the governor and the legislature.

(5) The office shall provide assistance, space, and other support as may be necessary for the activities of the state's two representatives to the Pacific northwest electric power and conservation planning council. To the extent consistent with federal law, the office shall request that Washington's council members request the administrator of the Bonneville power administration to reimburse the state for the expenses associated with the support as provided in the Pacific Northwest Electric Power Planning and Conservation Act (P.L. 96-501).

(6) The office shall cooperate with state agencies, other governmental units, and private interests on energy matters.

(7) The office shall represent the interests of the state in the siting, construction, and operation of nuclear waste storage and disposal facilities.

(8) The office shall serve as the official state agency responsible for coordination of energy-related activities.

(9) No later than December 1, 1982, and by December 1st of each even-numbered year thereafter, the office shall prepare and transmit to the governor and the legislature a report on energy supply and demand, conservation, and other factors as appropriate.

(10) The office shall provide support for increasing cost-effective energy conservation, including assisting in the removal of impediments to timely implementation.

(11) The office shall provide support for the development of cost-effective energy resources including assisting in the removal of impediments to timely construction.

(12) The office shall adopt rules, under chapter 34.05 RCW, necessary to carry out the powers and duties enumerated in this chapter.

(13) The office shall provide administrative assistance, space, and other support as may be necessary for the activities of the energy facility site evaluation council, as provided for in RCW 80.50.030.

Sec. 3. Section 51, chapter 266, Laws of 1986 as amended by section 60, chapter 36, Laws of 1988 and RCW 80.50.030 are each amended to read as follows:

(1) There is created and established the energy facility site evaluation council.

(2) (a) The chairman of the council shall be appointed by the governor with the advice and consent of the senate, shall have a vote on matters before the council, shall serve for a term coextensive with the term of the governor, and is removable for cause. The chairman may designate a member of the council to serve as acting chairman in the event of the chairman's absence. ~~((The salary of the chairman shall be determined under RCW 43.03.040:))~~ The chairman is a "state employee" for the purposes of chapter 42.18 RCW. As applicable, when attending meetings of the council 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 ((is the chief executive officer of the council and)) or a designee shall((, with the concurrence of the council;)) execute all official documents, contracts, and other materials on behalf of the council. ((The chairman shall appoint an executive secretary to serve at the pleasure of the chairman. The chairman may appoint a confidential secretary to serve at the pleasure of the chairman. The chairman shall appoint and prescribe the duties of such clerks, employees, and agents as may be necessary to carry out this chapter. PROVIDED, That such persons shall be employed pursuant to chapter 41.06 RCW:))~~ 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 wildlife;
- (d) Parks and recreation commission;

- (e) Department of ((social-and)) health ((services));
- (f) State energy office;
- (g) Department of trade and economic development;
- (h) Utilities and transportation commission;
- (i) Office of financial management;
- (j) Department of natural resources;
- (k) Department of community development;
- (l) Department of agriculture;
- (m) Department of transportation.

(4) The appropriate county legislative authority of every county wherein an application for a proposed site is filed shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the county which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site;

(5) The city legislative authority of every city within whose corporate limits an energy plant is proposed to be located shall appoint a member or designee as a voting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the city which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site.

(6) For any port district wherein an application for a proposed port facility is filed subject to this chapter, the port district shall appoint a member or designee as a nonvoting member to the council. The member or designee so appointed shall sit with the council only at such times as the council considers the proposed site for the port district which he or she represents, and such member or designee shall serve until there has been a final acceptance or rejection of the proposed site. The provisions of this subsection shall not apply if the port district is the applicant, either singly or in partnership or association with any other person.

Sec. 4. Section 4, chapter 45, Laws of 1970 ex. sess. as last amended by section 2, chapter 67, Laws of 1985 and RCW 80.50.040 are each amended to read as follows:

The council shall have the following powers:

(1) To adopt, promulgate, amend, or rescind suitable rules and regulations, pursuant to chapter 34.05 RCW, to carry out the provisions of this chapter, and the policies and practices of the council in connection therewith;

(2) To develop and apply environmental and ecological guidelines in relation to the type, design, location, construction, and operational conditions of certification of energy facilities subject to this chapter;

(3) To establish rules of practice for the conduct of public hearings pursuant to the provisions of the Administrative Procedure Act, as found in chapter 34.05 RCW;

(4) To prescribe the form, content, and necessary supporting documentation for site certification;

(5) To receive applications for energy facility locations and to investigate the sufficiency thereof;

(6) To make and contract, when applicable, for independent studies of sites proposed by the applicant;

(7) To conduct hearings on the proposed location of the energy facilities;

(8) To prepare written reports to the governor which shall include: (a) A statement indicating whether the application is in compliance with the council's guidelines, (b) criteria specific to the site and transmission line routing, (c) a council recommendation as to the disposition of the application, and (d) a draft certification agreement when the council recommends approval of the application;

(9) To prescribe the means for monitoring of the effects arising from the construction and the operation of energy facilities to assure continued compliance with terms of certification and/or permits issued by the council pursuant to chapter 90.48 RCW or subsection (12) of this section: **PROVIDED**, That any on-site inspection required by the council shall be performed by other state agencies pursuant to interagency agreement: **PROVIDED FURTHER**, That the council shall retain authority for determining compliance relative to monitoring;

(10) To integrate its site evaluation activity with activities of federal agencies having jurisdiction in such matters to avoid unnecessary duplication;

(11) To present state concerns and interests to other states, regional organizations, and the federal government on the location, construction, and operation of any energy facility which may affect the environment, health, or safety of the citizens of the state of Washington;

(12) To issue permits in compliance with applicable provisions of the federally approved state implementation plan adopted in accordance with the Federal Clean Air Act, as now existing or hereafter amended, for the new construction, reconstruction, or enlargement or operation of energy facilities: **PROVIDED**, That such permits shall become effective only if the governor approves an application for certification and executes a certification agreement pursuant to this chapter: **AND PROVIDED FURTHER**, That all such permits be conditioned upon compliance with all provisions of the federally approved state implementation plan which apply to energy facilities covered within the provisions of this chapter; and

(13) To serve as an interagency coordinating body for energy-related issues.

NEW SECTION. Sec. 5. All powers, duties, and functions of the energy facility site evaluation council pertaining to administrative and support personnel, office space, equipment, supplies, and other support of the council are transferred to the Washington state energy office.

NEW SECTION. Sec. 6. All reports, documents, surveys, books, records, files, papers, or written material in the possession of the energy facility site evaluation council pertaining to the powers, functions, and duties transferred shall be delivered to the custody of the Washington state energy office. All cabinets, furniture, office equipment, motor vehicles, and other tangible property employed by the energy facility site evaluation council in carrying out the powers, functions, and duties transferred shall be made available to the Washington state energy office. All funds, credits, or other assets held in connection with the powers, functions, and duties transferred shall be assigned to the Washington state energy office.

Any appropriations made to the energy facility site evaluation council for carrying out the powers, functions, and duties transferred shall, on the effective date of this act, be transferred and credited to the Washington state energy office.

Whenever any question arises as to the transfer of any personnel, funds, books, documents, records, papers, files, equipment, or other tangible property used or held in the exercise of the powers and the performance of the duties and functions transferred, the director of financial management shall make a determination as to the proper allocation and certify the same to the state agencies concerned.

NEW SECTION. Sec. 7. All employees of the energy facility site evaluation council engaged in performing the powers, functions, and duties transferred are transferred to the jurisdiction of the Washington state energy office. All employees classified under chapter 41.06 RCW, the state civil service law, are assigned to the Washington state energy office to perform their usual duties upon the same terms as formerly, without any loss of rights, subject to any action that may be appropriate thereafter in accordance with the laws and rules governing state civil service.

NEW SECTION. Sec. 8. All rules and all pending business before the energy facility site evaluation council pertaining to the powers, functions, and duties transferred shall be continued and acted upon by the Washington state energy office. All existing contracts and obligations pertaining to the powers, functions, and duties transferred shall remain in full force and shall be performed by the Washington state energy office.

NEW SECTION. Sec. 9. The transfer of powers, duties, functions, and personnel of the energy facility site evaluation council as provided in this act shall not affect the validity of any act performed before the effective date of this act.

NEW SECTION. Sec. 10. If apportionments of budgeted funds are required because of the transfers directed by sections 6 through 9 of this act, the director of financial management shall certify the apportionments to the agencies affected, the state auditor, and the state treasurer. Each of these shall make the appropriate transfer and adjustments in funds and appropriation accounts and equipment records in accordance with the certification.

NEW SECTION. Sec. 11. Nothing contained in sections 5 through 10 of this act may be construed to alter any existing collective bargaining unit or the provisions of any existing collective bargaining agreement until the agreement has expired or until the bargaining unit has been modified by action of the personnel board as provided by law.

NEW SECTION. Sec. 12. This act shall take effect July 1, 1990.

Passed the Senate February 12 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 13

[Senate Bill No. 6267]

OCCUPATIONAL THERAPY—LICENSING REQUIREMENTS

AN ACT Relating to regulation of occupational therapy; amending RCW 18.59.090; and repealing RCW 43.131.335 and 43.131.336.

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

Sec. 1. Section 10, chapter 9, Laws of 1984 and RCW 18.59.090 are each amended to read as follows:

(1) Licenses under this chapter shall be renewed at the time and in the manner determined by the director and with the payment of a renewal fee. The board ((may)) shall establish requirements for license renewal which provide evidence of continued competency. The director may provide for the late renewal of a license upon the payment of a late fee in accordance with its rules which may include additional continuing education or examination requirements.

(2) A suspended license is subject to expiration and may be renewed as provided in this section, but the renewal does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other conduct or activity in violation of the order or judgment by which the license was suspended. If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the renewal fee and any applicable late fee.

(3) Any occupational therapist or occupational therapy assistant licensed under this chapter not practicing occupational therapy or providing

services may place his or her license in an inactive status. The director may prescribe requirements for maintaining an inactive status and converting from an inactive or active status.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

- (1) Section 2, chapter 296, Laws of 1985 and RCW 43.131.335; and
- (2) Section 3, chapter 296, Laws of 1985 and RCW 43.131.336.

Passed the Senate February 6, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 14

[Senate Bill No. 6327]

STATE PATROL—EXEMPT POSITIONS

AN ACT Relating to exempt positions within the Washington state patrol; and adding a new section to chapter 41.06 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 41.06 RCW to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the Washington state patrol to confidential secretaries of agency bureau chiefs, or their functional equivalent, and a confidential secretary for the chief of staff: PROVIDED, That each confidential secretary must meet the minimum qualifications for the class of secretary II as determined by the state personnel board.

Passed the Senate February 5, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 15

[Senate Bill No. 6514]

DEPARTMENT OF LABOR AND INDUSTRIES AND BOARD OF INDUSTRIAL INSURANCE APPEALS—ATTORNEY'S FEES

AN ACT Relating to attorney's fees before the department of labor and industries and the board of industrial insurance appeals; and amending RCW 51.52.120.

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

Sec. 1. Section 51.52.120, chapter 23, Laws of 1961 as last amended by section 22, chapter 63, Laws of 1982 and RCW 51.52.120 are each amended to read as follows:

(1) It shall be unlawful for an attorney engaged in the representation of any worker or beneficiary to charge for services in the department any fee in excess of a reasonable fee, of not more than thirty percent of the increase in the award secured by the attorney's services. Such reasonable fee shall be fixed by the director or the director's designee for services performed by an attorney for such worker or beneficiary, ~~((prior to the notice of appeal to the board if written application therefor is made by the attorney, worker, or beneficiary))~~ if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the department is communicated to the party making the application.

(2) If, on appeal to the board, the order, decision, or award of the department is reversed or modified and additional relief is granted to a worker or beneficiary, or in cases where a party other than the worker or beneficiary is the appealing party and the worker's or beneficiary's right to relief is sustained by the board, the board shall fix a reasonable fee for the services of his or her attorney in proceedings before the board if written application therefor is made by the attorney, worker, or beneficiary within one year from the date the final decision and order of the board is communicated to the party making the application. In fixing the amount of such attorney's fee, the board shall take into consideration the fee allowed, if any, by the director, for services before the department, and the board may review the fee fixed by said director. Any attorney's fee set by the department or the board may be reviewed by the superior court upon application of such attorney, worker, or beneficiary. The department or self-insured employer, as the case may be, shall be served a copy of the application and shall be entitled to appear and take part in the proceedings. Where the board, pursuant to this section, fixes the attorney's fee, it shall be unlawful for an attorney to charge or receive any fee for services before the board in excess of that fee fixed by the board. Any person who violates any provision of this section shall be guilty of a misdemeanor.

Passed the Senate February 8, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 16

[Senate Bill No. 6549]

PUBLIC UTILITY DISTRICTS—EMPLOYEE COMPENSATION

AN ACT Relating to compensation of public utility district employees; and amending RCW 54.16.100.

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

Sec. 1. Section 11, chapter 390, Laws of 1955 and RCW 54.16.100 are each amended to read as follows:

The commission, by resolution introduced at a regular meeting and adopted at a subsequent regular meeting, shall appoint and may remove at will a district manager, and shall, by resolution, fix his ~~((salary))~~ or her compensation.

The manager shall be the chief administrative officer of the district, in control of all administrative functions and shall be responsible to the commission for the efficient administration of the affairs of the district placed in his or her charge. ~~((He))~~ The manager shall be an experienced executive with administrative ability. In the absence or temporary disability of the manager, ~~((he))~~ the manager shall, with the approval of the president of the commission, designate some competent person as acting manager.

The manager may attend all meetings of the commission and its committees, and take part in the discussion of any matters pertaining to the duties of his or her department, but shall have no vote.

The manager shall carry out the orders of the commission, and see that the laws pertaining to matters within the functions of his or her department are enforced; keep the commission fully advised as to the financial condition and needs of the districts; prepare an annual estimate for the ensuing fiscal year of the probable expenses of ~~((his))~~ the department, and recommend to the commission what development work should be undertaken, and what extensions and additions, if any, should be made during the ensuing fiscal year, with an estimate of the costs of the development work, extensions, and additions; certify to the commission all bills, allowances, and payrolls, including claims due contractors of public works; recommend to the commission ~~((salaries))~~ compensation of the employees of his or her office, and a scale of ~~((salaries or wages))~~ compensation to be paid for the different classes of service required by the district; hire and discharge employees under his or her direction; and perform such other duties as may be imposed upon ~~((him))~~ the manager by resolution of the commission. It is unlawful for ~~((him))~~ the manager to make any contribution of money in aid of or in opposition to the election of any candidate for public utility commissioner or to advocate or oppose any such election.

Passed the Senate February 9, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 17

[Senate Bill No. 6640]

HOTEL—MOTEL TAX—TOURISM STRATEGIES DEVELOPMENT USE

AN ACT Relating to expanding the use of hotel—motel tax revenues for the development of tourism strategies; and amending RCW 67.28.210.

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

Sec. 1. Section 14, chapter 236, Laws of 1967 as last amended by section 24, chapter 1, Laws of 1988 ex. sess. and RCW 67.28.210 are each amended to read as follows:

All taxes levied and collected under RCW 67.28.180, 67.28.230, and 67.28.240 shall be credited to a special fund in the treasury of the county or city imposing such tax. Such taxes shall be levied only for the purpose of paying all or any part of the cost of acquisition, construction, or operating of stadium facilities, convention center facilities, performing arts center facilities, and/or visual arts center facilities or to pay or secure the payment of all or any portion of general obligation bonds or revenue bonds issued for such purpose or purposes under this chapter, or to pay for advertising, publicizing, or otherwise distributing information for the purpose of attracting visitors and encouraging tourist expansion when a county or city has imposed such tax for such purpose, or as one of the purposes hereunder, and until withdrawn for use, the moneys accumulated in such fund or funds may be invested in interest bearing securities by the county or city treasurer in any manner authorized by law. In addition such taxes may be used to develop strategies to expand tourism (~~in distressed areas, as defined in RCW 43.165.010~~): PROVIDED, That any county, and any city within a county, bordering upon Grays Harbor may use the proceeds of such taxes for construction and maintenance of a movable tall ships tourist attraction in cooperation with a tall ships restoration society, except to the extent that such proceeds are used for payment of principal and interest on debt incurred prior to June 11, 1986: PROVIDED FURTHER, That any city or county may use the proceeds of such taxes for the refurbishing and operation of a steam railway for tourism promotion purposes.

Passed the Senate February 12, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 18

[Substitute Senate Bill No. 6600]

STATE RETIREMENT SYSTEMS—CONTRIBUTION RATES

AN ACT Relating to contribution rates to the state retirement systems; amending RCW 41.45.060 and 41.45.070; and providing an effective date.

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

Sec. 1. Section 6, chapter 273, Laws of 1989 and RCW 41.45.060 are each amended to read as follows:

Beginning September 1, (~~(+1990)~~) 1991, the basic state contribution rate for the law enforcement officers' and fire fighters' retirement system, and the basic employer contribution rates for the public employees' retirement system, the teachers' retirement system, and the Washington state patrol retirement system shall be as follows:

- (1) (~~(7.10%)~~) 7.47% for all members of the public employees' retirement system;
- (2) 12.60% for all members of the teachers' retirement system;
- (3) (~~(+6.88%)~~) 16.44% for all members of the law enforcement officers' and fire fighters' retirement system; and
- (4) (~~(21.47%)~~) 15.53% for all members of the Washington state patrol retirement system.

Sec. 2. Section 7, chapter 273, Laws of 1989 as amended by section 1, chapter 1, Laws of 1989 1st ex. sess. and RCW 41.45.070 are each amended to read as follows:

(1) Beginning September 1, (~~(+1990)~~) 1991, in addition to the basic employer contribution rate established in RCW 41.45.060, the department shall also charge employers of public employees' retirement system, teachers' retirement system, or Washington state patrol retirement system members an additional supplemental rate to pay for the cost of additional benefits, if any, granted to members of those systems after January 1, (~~(+1989)~~) 1990. The supplemental contribution rates required by this section shall be calculated by the state actuary and shall be charged regardless of language to the contrary contained in the statute which authorizes additional benefits.

(2) Beginning September 1, (~~(+1990)~~) 1991, in addition to the basic state contribution rate established in RCW 41.45.060 for the law enforcement officers' and fire fighters' retirement system the department shall also establish a supplemental rate to pay for the cost of additional benefits, if any, granted to members of the law enforcement officers' and fire fighters' retirement system after January 1, (~~(+1989)~~) 1990. This supplemental rate shall be calculated by the state actuary and the state treasurer shall transfer the additional required contributions regardless of language to the contrary contained in the statute which authorizes the additional benefits.

(3) The supplemental rate charged under this section to fund benefit increases provided to active members of the public employees' retirement system plan I, the teachers' retirement system plan I, the law enforcement officers' and fire fighters' retirement system plan I, and Washington state patrol retirement system, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit not later than June 30, 2024.

(4) The supplemental rate charged under this section to fund benefit increases provided to active and retired members of the public employees' retirement system plan II, the teachers' retirement system plan II, or the law enforcement officers' and fire fighters' retirement system plan II, shall be calculated as the level percentage of all members' pay needed to fund the cost of the benefit, as calculated under RCW 41.40.650, 41.32.775, or 41-.26.450, respectively.

(5) The supplemental rate charged under this section to fund postretirement adjustments which are provided on a nonautomatic basis to current retirees shall be calculated as the percentage of pay needed to fund the adjustments as they are paid to the retirees. The supplemental rate charged under this section to fund automatic postretirement adjustments for active or retired members of the public employees' retirement system plan I and the teachers' retirement system plan I shall be calculated as the level percentage of pay needed to fund the cost of the automatic adjustments not later than June 30, 2024.

NEW SECTION. Sec. 3. This act shall take effect September 1, 1991.

Passed the Senate February 9, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 19

[Senate Bill No. 6354]

APPLE GRADES

AN ACT Relating to apple grades; and amending RCW 15.17.100.

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

Sec. 1. Section 10, chapter 122, Laws of 1963 and RCW 15.17.100 are each amended to read as follows:

The director shall by rule establish grades and/or classifications for apples and standards and sizes for such grades and/or classifications. In establishing such standards for grades and/or classifications, the director shall take into account the factors of maturity, soundness, color, shape, and freedom from mechanical and plant pest injury. When establishing standards of color requirements for red varieties and partial red varieties of apples, the

director shall establish color standards for such varieties which are not less than the following:

1. Arkansas Black	Fifteen percent
2. Spitzenburg (Esopus)	Fifteen percent
3. Winesap	Twenty percent
4. King David	Fifteen percent
5. Delicious	Twenty percent
6. Stayman Winesap	Ten percent
7. Vanderpool	Ten percent
8. Black Twig	Ten percent
9. Jonathan	Ten percent
10. McIntosh	Ten percent
11. Rome	Ten percent
12. Red Sport varieties	Twenty percent

Whenever red sport varieties are marked as such, they shall meet the color requirements of red sport varieties.

The director may upon his or her own motion or upon the recommendation of an organization such as the Washington state horticultural association's grade and pack committee hold hearings in each major apple producing area concerning changes in apple grades and/or standards for such apple grades as proposed by the director or as recommended by such organization.

The hearings on such recommendations for changes in grades for apples and/or standards for such grades shall be subject to chapter 34.05 RCW concerning the adoption of rules ~~((and the director shall publish notice of such hearings at least three times in the legal newspaper with the widest circulation in the major apple producing areas where such hearings are to be held. The last publication of such notice shall be published at least fourteen days prior to such hearings))~~.

The director in making ~~((his))~~ a final determination on his or her recommendation or those proposed by such organization shall give due consideration to testimony given by producers or producer organizations at such hearing.

It shall be unlawful for any person to sell, offer for sale, hold for sale, ship, or transport any apples unless they comply with the provisions of this chapter and the rules adopted hereunder.

Passed the Senate February 2, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 20

[Senate Bill No. 6576]

WILD MUSHROOM HARVESTING

AN ACT Relating to the harvesting of wild mushrooms; and amending RCW 15.90.010, 15.90.020, 15.90.030, and 15.90.040.

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

Sec. 1. Section 1, chapter 230, Laws of 1988 and RCW 15.90.010 are each amended to read as follows:

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

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

(2) "Wild mushroom" means a mushroom that is not cultivated or propagated by artificial means.

(3) "Mushroom buyer" means ~~((any))~~ a person who ((obtains)) buys wild mushrooms ((from another person for eventual conveyance to a mushroom processor)) from a mushroom harvester for eventual resale.

(4) "Mushroom harvester" means a person who picks wild mushrooms for sale ~~((to a mushroom buyer or processor,))~~ or who picks wild mushrooms as an employee of a mushroom buyer or ~~((processor))~~ dealer.

(5) "Mushroom ~~((processor))~~ dealer" means a person, other than a ~~((restaurant or))~~ mushroom buyer, who purchases and ~~((processes))~~ handles wild mushrooms in any manner whatsoever for eventual resale, either wholesale or retail.

Sec. 2. Section 2, chapter 230, Laws of 1988 and RCW 15.90.020 are each amended to read as follows:

(1) A person may not act as a mushroom buyer or mushroom ~~((processor))~~ dealer without an annual license. Any person applying for such a license shall file an application on a form prescribed by the department, and accompanied by the following license fee:

(a) Mushroom buyer, seventy-five dollars;

(b) Mushroom ~~((processor))~~ dealer, three hundred seventy-five dollars.

(2) The mushroom buyer or mushroom ~~((processor))~~ dealer shall display the license in a manner visible to the public.

Sec. 3. Section 3, chapter 230, Laws of 1988 and RCW 15.90.030 are each amended to read as follows:

(1) A mushroom buyer who obtains wild mushrooms shall complete a form prescribed by the department that includes the following:

(a) The site at which the mushrooms were purchased by the buyer;

(b) The amount, by weight, of each species of mushrooms obtained;

(c) The approximate location of the harvest site;

(d) The date that the mushrooms were harvested;

- (e) The price paid to the harvester;
- (f) The name, address, and license number of the mushroom ((processor)) dealer to whom the mushrooms are sold;
- (g) Any additional information that the department, by rule, may require.

(2) Forms completed under this section shall be mailed or delivered to the department within fifteen days after the end of the month in which the mushrooms were delivered to the ((processor)) dealer.

(3) Mushroom ((processors)) dealers shall comply with the requirements of this section when obtaining wild mushrooms from any source other than a licensed mushroom buyer.

Sec. 4. Section 4, chapter 230, Laws of 1988 and RCW 15.90.040 are each amended to read as follows:

(1) Mushroom ((processors)) dealers shall annually, by December 31, complete and mail or deliver to the department a form prescribed by the department that includes for each variety of mushrooms:

(a) The quantity by weight sold within Washington, within the United States outside Washington, and to individual foreign countries;

(b) Any additional information that the department, by rule, may require.

(2) The department shall publish harvest totals in conjunction with United States department of agriculture crop reporting statistics as well as a compilation of the information received under subsection (1)(a) of this section.

Passed the Senate February 8, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 6, 1990.

Filed in Office of Secretary of State March 6, 1990.

CHAPTER 21

[Substitute House Bill No. 2956]

LOW-LEVEL RADIOACTIVE WASTE DISPOSAL CHARGES

AN ACT Relating to low-level radioactive waste; amending RCW 82.04.260, 43.200.170, 43.145.020, 43.200.080, and 70.98.085; adding a new section to chapter 43.200 RCW; adding a new section to chapter 81.04 RCW; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. State and national policy directs that the management of low-level radioactive waste shall be accomplished by a system of interstate compacts and the development of regional disposal sites. The Northwest regional compact, comprised of the states of Alaska, Hawaii, Idaho, Montana, Oregon, Utah, and Washington, has as its disposal facility the low-level radioactive waste disposal site located near

Richland, Washington. This site is expected to be the sole site for disposal of low-level radioactive waste for compact members effective January 1, 1993. Future closure of this site will require significant financial resources.

Low-level radioactive waste is generated by essential activities and services that benefit the citizens of the state. Washington state's low-level radioactive waste disposal site has been used by the nation and the Northwest compact as a disposal site since 1965. The public has come to rely on access to this site for disposal of low-level radioactive waste, which requires separate handling from other solid and hazardous wastes. The price of disposing of low-level radioactive waste at the Washington state low-level radioactive waste disposal site is anticipated to increase when the federal low-level radioactive waste policy amendments act of 1985 is implemented and waste generated outside the Northwest compact states is excluded. To protect Washington and other Northwest compact states' businesses and services, such as electrical production, medical and university research, and private industries, upon which the public relies, there may be a need to regulate the rates charged by the operator of Washington's low-level radioactive waste disposal site.

Sec. 2. Section 1, chapter 139, Laws of 1987 and RCW 82.04.260 are each amended to read as follows:

(1) Upon every person engaging within this state in the business of buying wheat, oats, dry peas, dry beans, lentils, triticale, corn, rye and barley, but not including any manufactured or processed products thereof, and selling the same at wholesale; the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of one one-hundredth of one percent.

(2) Upon every person engaging within this state in the business of manufacturing wheat into flour, barley into pearl barley, soybeans into soybean oil, or sunflower seeds into sunflower oil; as to such persons the amount of tax with respect to such business shall be equal to the value of the flour, pearl barley, or oil manufactured, multiplied by the rate of one-eighth of one percent.

(3) Upon every person engaging within this state in the business of splitting or processing dried peas; as to such persons the amount of tax with respect to such business shall be equal to the value of the peas split or processed, multiplied by the rate of one-quarter of one percent.

(4) Upon every person engaging within this state in the business of manufacturing seafood products which remain in a raw, raw frozen, or raw salted state at the completion of the manufacturing by that person; as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured, multiplied by the rate of one-eighth of one percent.

(5) Upon every person engaging within this state in the business of manufacturing by canning, preserving, freezing or dehydrating fresh fruits

and vegetables; as to such persons the amount of tax with respect to such business shall be equal to the value of the products canned, preserved, frozen or dehydrated multiplied by the rate of three-tenths of one percent.

(6) Upon every nonprofit corporation and nonprofit association engaging within this state in research and development, as to such corporations and associations, the amount of tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of forty-four one-hundredths of one percent.

(7) Upon every person engaging within this state in the business of slaughtering, breaking and/or processing perishable meat products and/or selling the same at wholesale only and not at retail; as to such persons the tax imposed shall be equal to the gross proceeds derived from such sales multiplied by the rate of twenty-five one-hundredths of one percent through June 30, 1986, and one-eighth of one percent thereafter.

(8) Upon every person engaging within this state in the business of making sales, at retail or wholesale, of nuclear fuel assemblies manufactured by that person, as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds of sales of the assemblies multiplied by the rate of twenty-five one-hundredths of one percent.

(9) Upon every person engaging within this state in the business of manufacturing nuclear fuel assemblies, as to such persons the amount of tax with respect to such business shall be equal to the value of the products manufactured multiplied by the rate of twenty-five one-hundredths of one percent.

(10) Upon every person engaging within this state in the business of acting as a travel agent; as to such persons the amount of the tax with respect to such activities shall be equal to the gross income derived from such activities multiplied by the rate of twenty-five one-hundredths of one percent.

(11) Upon every person engaging within this state in business as an international steamship agent, international customs house broker, international freight forwarder, vessel and/or cargo charter broker in foreign commerce, and/or international air cargo agent; as to such persons the amount of the tax with respect to only international activities shall be equal to the gross income derived from such activities multiplied by the rate of thirty-three one-hundredths of one percent.

(12) Upon every person engaging within this state in the business of stevedoring and associated activities pertinent to the movement of goods and commodities in waterborne interstate or foreign commerce; as to such persons the amount of tax with respect to such business shall be equal to the gross proceeds derived from such activities multiplied by the rate of thirty-three one hundredths of one percent. Persons subject to taxation under this subsection shall be exempt from payment of taxes imposed by chapter 82.16

RCW for that portion of their business subject to taxation under this subsection. Stevedoring and associated activities pertinent to the conduct of goods and commodities in waterborne interstate or foreign commerce are defined as all activities of a labor, service or transportation nature whereby cargo may be loaded or unloaded to or from vessels or barges, passing over, onto or under a wharf, pier, or similar structure; cargo may be moved to a warehouse or similar holding or storage yard or area to await further movement in import or export or may move to a consolidation freight station and be stuffed, unstuffed, containerized, separated or otherwise segregated or aggregated for delivery or loaded on any mode of transportation for delivery to its consignee. Specific activities included in this definition are: Wharfage, handling, loading, unloading, moving of cargo to a convenient place of delivery to the consignee or a convenient place for further movement to export mode; documentation services in connection with the receipt, delivery, checking, care, custody and control of cargo required in the transfer of cargo; imported automobile handling prior to delivery to consignee; terminal stevedoring and incidental vessel services, including but not limited to plugging and unplugging refrigerator service to containers, trailers, and other refrigerated cargo receptacles, and securing ship hatch covers.

(13) Upon every person engaging within this state in the business of disposing of low-level waste, as defined in RCW 43.145.010; as to such persons the amount of the tax with respect to such business shall be equal to the gross income of the business, excluding any fees imposed under chapter 43.200 RCW, multiplied by the rate of ~~((thirty))~~ fifteen percent.

(a) The rate specified in this subsection shall be reduced to ten percent upon the effective date of legislation adopted pursuant to section 8 of this act governing regulation of the business of low-level radioactive waste disposal.

(b) The rate specified in this subsection shall be further reduced to five percent on January 1, 1992, if (a) of this subsection has taken effect.

If the gross income of the taxpayer is attributable to activities both within and without this state, the gross income attributable to this state shall be determined in accordance with the methods of apportionment required under RCW 82.04.460.

(14) Upon every person engaging within this state as an insurance agent, insurance broker, or insurance solicitor licensed under chapter 48.17 RCW; as to such persons, the amount of the tax with respect to such licensed activities shall be equal to the gross income of such business multiplied by the rate of one percent.

Sec. 3. Section 3, chapter 2, Laws of 1986 and 43.200.170 are each amended to read as follows:

The governor may assess surcharges and penalty surcharges on the disposal of waste at the Hanford low-level radioactive waste disposal facility. The surcharges may be imposed up to the maximum extent permitted by federal law. Ten dollars per cubic foot of the moneys received under this section shall be transmitted monthly to the site closure account established under RCW 43.200.080. The rest of the moneys received under this section shall be deposited in the general fund.

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

Beginning January 1, 1993, the department of ecology may impose a reasonable site closure fee if necessary to be deposited in the site closure account established under RCW 43.200.080. The department may continue to collect moneys for the site closure account until the account contains an amount sufficient to complete the closure plan, as specified in the radioactive materials license issued by the department of health.

Sec. 5. Section 2, chapter 124, Laws of 1981 and RCW 43.145.020 are each amended to read as follows:

The person designated as the Washington representative to the committee as specified in Article V shall adhere to all provisions of the low-level radioactive waste compact. In considering special conditions or arrangements for access to the state's facilities from wastes generated outside of the region, the committee member shall ensure at a minimum, that the provisions of Article IV, Section 3 are complied with. (~~The Washington representative shall approve access of such wastes to the state's facility only if there is no other feasible alternative available~~) After 1992 the Washington representative may approve access to the state's facility only for the states currently members of the Rocky Mountain compact or states which generate less than one thousand cubic feet of waste annually and are contiguous with a state which is a member of the Northwest compact.

Sec. 6. Section 8, chapter 19, Laws of 1983 1st ex. sess. as last amended by section 2, chapter 418, Laws of 1989 and RCW 43.200.080 are each amended to read as follows:

The director of ecology shall, in addition to the powers and duties otherwise imposed by law, have the following special powers and duties:

(1) To fulfill the responsibilities of the state under the lease between the state of Washington and the federal government executed September 10, 1964, covering one thousand acres of land lying within the Hanford reservation near Richland, Washington. The department of ecology may sublease to private or public entities all or a portion of the land for specific purposes or activities which are determined, after public hearing, to be in agreement with the terms of the lease and in the best interests of the citizens of the state consistent with any criteria that may be developed as a requirement by the legislature;

(2) To assume the responsibilities of the state under the perpetual care agreement between the state of Washington and the federal government executed July 29, 1965 and the sublease between the state of Washington and the site operator of the Hanford low-level radioactive waste disposal facility. In order to finance perpetual surveillance and maintenance under the agreement and ensure site closure under the sublease, the department of ecology shall impose and collect fees from parties holding radioactive materials for waste management purposes. The fees shall be established by rule adopted under chapter 34.05 RCW and shall be an amount determined by the department of ecology to be necessary to defray the estimated liability of the state. Such fees shall reflect equity between the disposal facilities of this and other states. All such fees, when received by the department of ecology, shall be transmitted to the state treasurer, who shall act as custodian. The perpetual maintenance fund is created in the state treasury. The treasurer shall place the money in a special fund which may be designated the "perpetual maintenance fund." The perpetual maintenance fund shall be comprised of a site closure account and a perpetual surveillance and maintenance account. The site closure account shall be exclusively available to reimburse, to the extent that moneys are available in the account, the site operator for its costs plus a reasonable profit as agreed by the operator and the state, or to reimburse the state licensing agency and any agencies under contract to the state licensing agency for their costs in final closure and decommissioning of the Hanford low-level radioactive waste disposal facility. If a balance remains in the account after satisfactory performance of closure and decommissioning, this balance shall be transferred to the perpetual surveillance and maintenance account. The perpetual surveillance and maintenance account shall be used exclusively by the state to meet post-closure surveillance and maintenance costs, or for otherwise satisfying surveillance and maintenance obligations. Appropriations are required to permit expenditures and payment of obligations from the site closure account and the perpetual surveillance and maintenance account. Moneys which on July 23, 1989, are in the perpetual maintenance account shall be transferred to the perpetual surveillance and maintenance account. All moneys currently administered by the department of ecology for closure of the Hanford low-level radioactive waste disposal facility shall be transferred to the site closure account within the perpetual maintenance fund. All future moneys, including interest, contributed to the perpetual maintenance fund shall be directed to the site closure account until December 31, 1992. Thereafter receipts shall be directed to the perpetual maintenance fund as specified by the department. Moneys in the perpetual maintenance fund shall be invested by the state investment board in the same manner as other state moneys. Any interest accruing as a result of investment shall accrue to the perpetual

maintenance fund. Additional moneys specifically appropriated by the legislature or received from any public or private source may be placed in the perpetual maintenance fund;

(3) To assure maintenance of such insurance coverage by state licensees, lessees, or sublessees as will adequately, in the opinion of the director, protect the citizens of the state against nuclear accidents or incidents that may occur on privately or state-controlled nuclear facilities;

(4) To institute a user permit system and issue site use permits, consistent with regulatory practices, for generators, packagers, or brokers using the Hanford low-level radioactive waste disposal facility. The costs of administering the user permit system shall be borne by the applicants for site use permits. The site use permit fee shall be set at a level that is sufficient to fund completely the executive and legislative participation in activities related to the Northwest Interstate Compact on Low-Level Radioactive Waste Management; and

(5) To make application for or otherwise pursue any federal funds to which the state may be eligible, through the federal resource conservation and recovery act or any other federal programs, for the management, treatment or disposal, and any remedial actions, of wastes that are both radioactive and hazardous at all Hanford low-level radioactive waste disposal facilities; and

(6) To develop contingency plans for duties and options for the department and other state agencies related to the Hanford low-level radioactive waste disposal facility based on various projections of annual levels of waste disposal. These plans shall include an analysis of expected revenue to the state in various taxes and funds related to low-level radioactive waste disposal and the resulting implications that any increase or decrease in revenue may have on state agency duties or responsibilities. The initial set of plans shall be completed by October 1, 1989, and shall be updated annually. The department shall report annually on the plans and on the balances in the site closure and perpetual surveillance accounts to the energy and utilities committees of the senate and the house of representatives.

Sec. 7. Section 3, chapter 383, Laws of 1985 as last amended by section 1, chapter 106, Laws of 1989 and RCW 70.98.085 are each amended to read as follows:

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

(2) The agency shall collect a surveillance fee as an added charge on each cubic foot of low level radioactive waste disposed of at the disposal site in this state which shall be set at a level that is sufficient to fund completely the radiation control activities of the agency directly related to the disposal site, including but not limited to the management, licensing, monitoring,

and regulation of the site. The surveillance fee shall not exceed ~~((four))~~ five percent in 1990, six percent in 1991, and seven percent in 1992 of the basic minimum fee charged by an operator of a low-level radioactive waste disposal site in this state. The basic minimum fee consists of the disposal fee for the site operator, the fee for the perpetual care and maintenance fund administered by the state, the fee for the state closure fund, and the tax collected pursuant to chapter 82.04 RCW. Site use permit fees and surcharges collected under chapter 43.200 RCW are not part of the basic minimum fee. The fee shall also provide funds to the Washington state patrol for costs incurred from inspection of low-level radioactive waste shipments entering this state. Disbursements for this purpose shall be by authorization of the secretary of the department of health or the secretary's designee.

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

NEW SECTION. Sec. 8. A new section is added to chapter 81.04 RCW to read as follows:

The commission, together with the Hanford low-level radioactive waste disposal site operator and other state agencies and parties as necessary, shall study and assess the need for procedures that include, but are not limited to: Assuring that the operator's rates are fair, just, reasonable, and sufficient considering the value of the operator's leasehold and license interests, the unique nature of its business operations, and the operator's liability associated with the site and its investment incurred over the term of its operations, and the rate of return equivalent to that earned by comparable enterprises; and for ensuring that the commission's costs of regulation are recovered when the federal low-level waste policy act amendment of 1985 results in the regional site being the exclusive site option for Northwest low-level waste compact generators, after January 1, 1993. The commission shall issue its report for such procedures, containing comments by the operator and other parties, to the legislature by December 1, 1990, for its consideration. If, following receipt of the study, the legislature authorizes the commission to regulate the operator's rates, such rates shall not take effect until January 1, 1993, when the regional site will be the exclusive site option for Northwest low-level waste compact generators.

NEW SECTION. Sec. 9. The sum of thirty thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the utilities and transportation commission to carry out the study specified in section 8 of this act.

NEW SECTION. Sec. 10. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House February 12, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 22

[Substitute Senate Bill No. 6473]

CORRECTIONAL INDUSTRIES—PRIVATE SALE AND DONATIONS OF PRODUCTS

AN ACT Relating to sale of products of correctional industries; amending RCW 72.09.100; and creating a new section.

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

Sec. 1. Section 11, chapter 136, Laws of 1981 as last amended by section 7, chapter 185, Laws of 1989 and RCW 72.09.100 are each amended to read as follows:

It is the intent of the legislature to vest in the department the power to provide for a comprehensive inmate work program and to remove statutory and other restrictions which have limited work programs in the past. For purposes of establishing such a comprehensive program, the legislature recommends that the department consider adopting any or all, or any variation of, the following classes of work programs:

(1) CLASS I: FREE VENTURE INDUSTRIES. The industries in this class shall be operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. The organization shall produce goods or services for sale to both the public and private sector.

The department of corrections shall supply appropriate security and custody services without charge to the participating firms.

Inmates who work in free venture industries shall do so at their own choice. They shall be paid a wage not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director of the correctional industries division. If the director finds that he cannot reasonably determine the wage, then the pay shall not be less than the federal minimum wage.

(2) CLASS II: TAX REDUCTION INDUSTRIES. Industries in this class shall be state-owned and operated enterprises designed to reduce the costs for goods and services for tax-supported agencies and for nonprofit organizations. The industries selected for development within this class shall, as much as possible, match the available pool of inmate work skills and aptitudes with the work opportunities in the free community. The industries shall be closely patterned after private sector industries but with

the objective of reducing public support costs rather than making a profit. The products and services of this industry, including purchased products and services necessary for a complete product line, may be sold to public agencies (~~and~~), to nonprofit organizations (~~(-PROVIDED, That)~~), and to private contractors when the goods purchased will be ultimately used by a public agency or a nonprofit organization. Clothing manufactured by an industry in this class may be donated to nonprofit organizations that provide clothing free of charge to low-income persons. Correctional industries products and services shall be reviewed by the correctional industries board of directors before offering such products and services for sale to private contractors. The board of directors shall conduct a yearly marketing review of the products and services offered under this subsection. Such review shall include an analysis of the potential impact of the proposed products and services on the Washington state business community. To avoid waste or spoilage and consequent loss to the state, when there is no public sector market for such goods, byproducts and surpluses of timber, agricultural, and animal husbandry enterprises may be sold to private persons, at private sale. Surplus by-products and surpluses of timber, agricultural and animal husbandry enterprises that cannot be sold to public agencies or to private persons may be donated to nonprofit organizations. All sales of surplus products shall be carried out in accordance with rules prescribed by the secretary.

Security and custody services shall be provided without charge by the department of corrections.

Inmates working in this class of industries shall do so at their own choice and shall be paid for their work on a gratuity scale which shall not exceed the federal minimum wage and which is approved by the director of correctional industries.

(3) CLASS III: INSTITUTIONAL SUPPORT INDUSTRIES. Industries in this class shall be operated by the department of corrections. They shall be designed and managed to accomplish the following objectives:

(a) Whenever possible, to provide basic work training and experience so that the inmate will be able to qualify for better work both within correctional industries and the free community. It is not intended that an inmate's work within this class of industries should be his or her final and total work experience as an inmate.

(b) Whenever possible, to provide forty hours of work or work training per week.

(c) Whenever possible, to offset tax and other public support costs.

Supervising, management, and custody staff shall be employees of the department.

All able and eligible inmates who are assigned work and who are not working in other classes of industries shall work in this class.

Except for inmates who work in work training programs, inmates in this class shall be paid for their work in accordance with an inmate gratuity scale. The scale shall be adopted by the secretary of corrections.

(4) **CLASS IV: COMMUNITY WORK INDUSTRIES.** Industries in this class shall be operated by the department of corrections. They shall be designed and managed to provide services in the inmate's resident community at a reduced cost. The services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations.

Inmates in this program shall reside in facilities owned by, contracted for, or licensed by the department of corrections. A unit of local government shall provide work supervision services without charge to the state and shall pay the inmate's wage.

The department of corrections shall reimburse participating units of local government for liability and workers compensation insurance costs.

Inmates who work in this class of industries shall do so at their own choice and shall receive a gratuity which shall not exceed the minimum wage for their work.

(5) **CLASS V: COMMUNITY SERVICE PROGRAMS.** Programs in this class shall be subject to supervision by the department of corrections. The purpose of this class of industries is to enable an offender, placed on community supervision, to work off all or part of a community service order as ordered by the sentencing court.

Employment shall be in a community service program operated by the state, local units of government, or a nonprofit agency.

To the extent that funds are specifically made available for such purposes, the department of corrections shall reimburse nonprofit agencies for workers compensation insurance costs.

NEW SECTION. Sec. 2. The department of corrections, in conjunction with representatives of labor and the business community, shall study the expansion of prison industries products to the private sector and report to the senate law and justice and house of representatives health care committees by January 1, 1991.

Passed the Senate March 3, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 23

[Substitute Senate Bill No. 6452]

LEAVE SHARING PROGRAM—SCHOOL DISTRICTS AND COMMUNITY COLLEGES

AN ACT Relating to the school district and community college employee leave sharing program; amending RCW 41.04.660, 41.04.665, 41.04.670, and 28A.58.0991; and declaring an emergency.

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

Sec. 1. Section 3, chapter 93, Laws of 1989 and RCW 41.04.660 are each amended to read as follows:

The Washington state leave sharing program is hereby created. The purpose of the program is to permit state employees, at no significantly increased cost to the state of providing annual or sick leave, to come to the aid of a fellow state employee who is suffering from or has a relative or household member suffering from an extraordinary or severe illness, injury, impairment, or physical or mental condition which has caused or is likely to cause the employee to take leave without pay or terminate his or her employment.

Sec. 2. Section 4, chapter 93, Laws of 1989 and RCW 41.04.665 are each amended to read as follows:

(1) An agency head may permit an employee to receive leave under this section if:

(a) The employee suffers from, or has a relative or household member suffering from, an illness, injury, impairment, or physical or mental condition which is of an extraordinary or severe nature and which has caused, or is likely to cause, the employee to:

(i) Go on leave without pay status; or

(ii) Terminate state employment;

(b) The employee's absence and the use of shared leave are justified;

(c) The employee has depleted or will shortly deplete his or her annual leave and sick leave reserves;

(d) The employee has abided by agency rules regarding sick leave use; and

(e) The employee has diligently pursued and been found to be ineligible for benefits under chapter 51.32 RCW.

(2) The agency head shall determine the amount of leave, if any, which an employee may receive under this section. However, an employee shall not receive a total of more than two hundred sixty-one days of leave.

(3) An employee who has an accrued annual leave balance of more than ten days may request that the head of the agency for which the employee works transfer a specified amount of annual leave to another employee authorized to receive leave under subsection (1) of this section. In no

event may the employee request a transfer of an amount of leave that would result in his or her annual leave account going below ten days.

(4) An employee of a community college, school district, or educational service district who does not accrue annual leave but does accrue sick leave and who has an accrued sick leave balance of more than sixty days may request that the head of the agency for which the employee works transfer a specified amount of sick leave to another employee authorized to receive leave under subsection (1) of this section. In no event may such an employee request a transfer of more than six days of sick leave during any twelve month period, or request a transfer that would result in his or her sick leave account going below sixty days. Transfers of sick leave under this subsection are limited to transfers from employees who do not accrue annual leave. Under this subsection, "sick leave" also includes leave accrued pursuant to RCW 28A.58.099(2) or 28A.21.102(1) with compensation for illness, injury, and emergencies.

(5) Transfers of leave made by an agency head under subsections (3) and (4) of this section shall not exceed the requested amount.

~~((5))~~ (6) Leave transferred under this section may be transferred from employees of one agency to an employee of the same agency or, with the approval of the heads of both agencies, to an employee of another state agency. However, leave transferred to or from employees of school districts or educational service districts is limited to transfers to or from employees within the same employing district.

~~((6))~~ (7) While an employee is on leave transferred under this section, he or she shall continue to be classified as a state employee and shall receive the same treatment in respect to salary, wages, and employee benefits as the employee would normally receive if using accrued annual leave or sick leave.

(a) All salary and wage payments made to employees while on leave transferred under this section shall be made by the agency employing the person receiving the leave. The value of leave transferred shall be based upon the annual leave value of the person receiving the leave.

(b) In the case of leave transferred by an employee of one agency to an employee of another agency, the agencies involved shall arrange for the transfer of funds and credit for the appropriate value of leave.

(i) Pursuant to rules adopted by the office of financial management, funds shall not be transferred under this section if the transfer would violate any constitutional or statutory restrictions on the funds being transferred.

(ii) The office of financial management may adjust the appropriation authority of an agency receiving funds under this section only if and to the extent that the agency's existing appropriation authority would prevent it from expending the funds received.

(iii) Where any questions arise in the transfer of funds or the adjustment of appropriation authority, the director of financial management shall determine the appropriate transfer or adjustment.

~~((7))~~ (8) Leave transferred under this section shall not be used in any calculation to determine an agency's allocation of full time equivalent staff positions.

~~((8))~~ (9) The value of any leave transferred under this section which remains unused shall be returned at its original value to the employee or employees who transferred the leave when the agency head finds that the leave is no longer needed or will not be needed at a future time in connection with the illness or injury for which the leave was transferred. To the extent administratively feasible, the value of unused leave which was transferred by more than one employee shall be returned on a pro rata basis.

Sec. 3. Section 5, chapter 93, Laws of 1989 and RCW 41.04.670 are each amended to read as follows:

The state personnel board, the higher education personnel board, and other personnel authorities shall each adopt rules applicable to employees under their respective jurisdictions: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; (2) providing for equivalent treatment of employees between their respective jurisdictions and allowing transfers of leave in accordance with RCW 41.04.665(5); (3) establishing procedures to ensure that the program does not significantly increase the cost of providing ~~((annual))~~ leave; and (4) providing for the administration of the program and providing for maintenance and collection of sufficient information on the program to allow a thorough legislative review.

Sec. 4. Section 6, chapter 93, Laws of 1989 and RCW 28A.58.0991 are each amended to read as follows:

Every school district board of directors and educational service district superintendent may, in accordance with RCW 41.04.650 through 41.04.665, establish and administer ~~((an annual))~~ a leave sharing program for their certificated and noncertificated employees. For employees of school districts and educational service districts, the superintendent of public instruction shall adopt standards: (1) Establishing appropriate parameters for the program which are consistent with the provisions of RCW 41.04.650 through 41.04.665; and (2) establishing procedures to ensure that the program does not significantly increase the cost of providing ~~((annual))~~ leave.

NEW SECTION. Sec. 5. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 3, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 24

[House Bill No. 2842]

DISABLED PARKING PRIVILEGES—SENSITIVITY TO AUTOMOBILE EMISSIONS AS DISABILITY

AN ACT Relating to special parking privileges for disabled persons; and amending RCW 46.16.381.

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

Sec. 1. Section 2, chapter 154, Laws of 1984 as amended by section 1, chapter 96, Laws of 1986 and RCW 46.16.381 are each amended to read as follows:

(1) The director shall grant special parking privileges to any person who meets one of the following criteria:

(a) Loss of both lower limbs;

(b) Loss of normal or full use of the lower limbs to sufficiently constitute a severe disability;

(c) Is so severely disabled, that the person cannot move without the aid of crutches or a wheelchair;

(d) Loss of both hands;

(e) Suffers from lung disease to such an extent that forced expiratory respiratory volume, when measured by spirometry is less than one liter per second; ((or))

(f) Impairment by cardiovascular disease to the extent that the person's functional limitations are classified as class III or IV under standards accepted by the American Heart Association; or

(g) Has a disability resulting from an acute sensitivity to automobile emissions which limits or impairs the ability to walk. The personal physician of the applicant shall document that the disability is comparable in severity to the others listed in this subsection.

(2) Persons with special parking privileges are entitled to receive from the department of licensing both a special card to be left in a vehicle in a conspicuous place and, for one motor vehicle only, a decal to be attached to the vehicle in a conspicuous place designated by the director. Instead of the decal and regular motor vehicle license plates, the disabled persons are entitled to receive a special license plate. The card, decal, and special license plate shall be designed to show distinguishing marks, letters, or numerals

indicating that the vehicle is being used to transport a disabled person. Persons using vehicles displaying the special license plate, card, or decal shall be permitted to park in places otherwise reserved for physically disabled persons. The director shall also adopt rules providing for the issuance of special cards to public transportation authorities, nursing homes licensed under chapter 18.51 RCW, senior citizen centers, and private nonprofit agencies as defined in chapter 24.03 RCW that regularly transport disabled persons who have been determined eligible for special parking privileges provided under this section. The special card shall be displayed in a vehicle operated when actually transporting the disabled persons. Public transportation authorities, nursing homes, senior citizen centers, and private nonprofit agencies are responsible for insuring that the special cards are not used improperly and are responsible for all fines and penalties for improper use.

(3) Whenever the disabled person transfers or assigns his or her interest in the vehicle, the special decals or license plate shall be removed from the motor vehicle. The person shall immediately surrender the decal to the director together with a notice of the transfer of interest in the vehicle. If another vehicle is acquired by, or for the primary use of, the disabled person, a new decal shall be issued by the director. If another vehicle is acquired by the disabled person and a special plate is used, the plate shall be attached to the vehicle, and the director shall be immediately notified of the transfer of the plate. If another vehicle is not acquired by the disabled person, the removed plate shall be immediately forwarded to the director to be reissued later upon payment of the regular registration fee.

(4) The special license plate shall be renewed in the same manner and at the time required for the renewal of regular motor vehicle license plates under this chapter. No special license plate may be issued to a person who is temporarily disabled. A person who is permanently disabled under this section shall be issued a permanent card. A person who is temporarily disabled under this section shall be issued a temporary card which shall be renewed, when required by the director, by satisfactory proof of the right to continued use of the card.

(5) Additional fees shall not be charged for the issuance of the special card and decal, and, at the time the vehicle is originally licensed in this state, no additional fee may be charged for the issuance of the special license plate except the regular motor vehicle registration fee and any other fees and taxes required to be paid upon initial registration of a motor vehicle.

(6) Any unauthorized use of the special card, the decal, or the special license plate is a traffic infraction.

(7) It is a traffic infraction, with a monetary penalty of not less than fifteen and not more than fifty dollars for any person to park a vehicle in a parking place provided on private property without charge or on public

property reserved for physically disabled persons without a special license plate, card, or decal. If a person is charged with a violation, the person shall not be determined to have committed an infraction if the person produces in court or before the court appearance the special license plate, card, or decal required under this section or demonstrates that the person was entitled to the special license plate, card, or decal.

(8) It is a misdemeanor for any person to willfully obtain a special decal, license plate, or card in a manner other than that established under this section.

Passed the House February 9, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 25

[House Bill No. 2410]

HOSPICE BENEFITS EXTENSION

AN ACT Relating to extending hospice benefits to the end of the biennium; reenacting and amending RCW 74.09.520; and declaring an emergency.

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

Sec. 1. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 3, chapter 400, Laws of 1989 and by section 10, chapter 427, Laws of 1989 and RCW 74.09.520 are each reenacted and amended to read as follows:

(1) The term "medical assistance" may include the following care and services: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and x-ray services; (d) skilled nursing home services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a handicapped child by a school district as part of an individualized education program established pursuant to chapter 28A.13 RCW. For the purposes of this section, the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services. Services included in an individualized education program for a handicapped child under chapter 28A.13 RCW shall not qualify as medical assistance prior to the implementation of the funding process developed under RCW 74.09.524.

(2) The department shall amend the state plan for medical assistance under Title XIX of the federal social security act to include personal care services, as defined in 42 C.F.R. 440.170(f), in the categorically needy program.

(3) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care must be approved by a physician and reviewed by a nurse every ninety days.

(4) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(5) The department shall report to the appropriate fiscal committees of the legislature on the utilization and associated costs of the personal care option under Title XIX of the federal social security act, as defined in 42 C.F.R. 440.170(f), in the categorically needy program. This report shall be submitted by January 1, 1990, and submitted on a yearly basis thereafter.

(6) Effective July 1, 1989, the department shall offer hospice services in accordance with available funds. The department shall provide a complete accounting of the costs of providing hospice services under this section by December 20, ~~((1989))~~ 1990. The report shall include an assessment of cost savings which may result by providing hospice to persons who otherwise would use hospitals, nursing homes, or more expensive care. The hospice benefit under this section shall terminate on ~~((April 1, 1990))~~ June 30, 1991, unless extended by the legislature.

NEW SECTION. Sec. 2. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state

government and its existing public institutions, and shall take effect immediately.

Passed the House February 9, 1990.
Passed the Senate February 26, 1990.
Approved by the Governor March 13, 1990.
Filed in Office of Secretary of State March 13, 1990.

CHAPTER 26

[Substitute House Bill No. 2933]

MUNICIPAL INSURANCE POOLS STUDY

AN ACT Relating to a study of municipal insurance pools; and creating a new section.

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

NEW SECTION. Sec. 1. A joint select committee on municipal insurance pools shall study local government self insurance pools established under chapter 48.62 RCW, and report its findings, and any recommended legislation, to the legislature on or before October 1, 1990. The joint select committee on municipal insurance pools shall consist of eight members, four senators, two from each of the major caucuses, who are appointed by the president of the senate, and four representatives, two from each of the major caucuses, who are appointed by the speaker of the house.

The study shall include input from interested parties, including the existing municipal insurance pools, various associations of local governments, the state risk manager, the Washington chapter of the public risk insurance managers association, the office of the superintendent of public instruction, the department of employment security, the department of labor and industries, the state actuary, office of the state auditor, and the office of the attorney general.

Passed the House February 12, 1990.
Passed the Senate February 26, 1990.
Approved by the Governor March 13, 1990.
Filed in Office of Secretary of State March 13, 1990.

CHAPTER 27

[Substitute Senate Bill No. 5554]

RAILROAD TRACK SCALES

AN ACT Relating to railroad track scales; adding a new section to chapter 19.94 RCW; and repealing RCW 81.44.150 and 81.44.160.

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

NEW SECTION. Sec. 1. A new section is added to chapter 19.94 RCW to read as follows:

All railroad track scale owners in this state shall provide suitable facilities for testing track scales. The department is authorized, after a hearing, upon its own motion, and after notice to track scale owners, to order the track scale owners in this state to provide a suitable car or other device or facility to be used in testing track scales. The cost of providing the car, device, or facility shall be equitably and reasonably apportioned by the department among all track scale owners benefiting from the car, device, or facility. The car, device, or facility shall be used by the department to test the accuracy of all track scales, and the railroad companies shall without charge, move the car, device, or facility to locations designated by the department, under such rules as the department may prescribe. The car, device, or facility may be used in adjoining states to test railroad track scales and for that purpose may be taken beyond the limits of the state under such rules for its due care and return as the department may prescribe. The car, device, or facility may also be used for the testing of scales other than railroad track scales as determined to be appropriate by the department. The department is authorized to prescribe and collect a reasonable fee to cover all costs for the inspection and testing of track scales. The moneys collected by the department shall be placed in an account in the agriculture local fund.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 81.44.150, chapter 14, Laws of 1961 and RCW 81.44.150;
and

(2) Section 81.44.160, chapter 14, Laws of 1961 and RCW 81.44.160.

Passed the Senate February 13, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 28

[Senate Bill No. 5593]

VEHICLE LENGTH LIMITS

AN ACT Relating to vehicle length; and amending RCW 46.44.030.

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

Sec. 1. Section 46.44.030, chapter 12, Laws of 1961 as last amended by section 1, chapter 351, Laws of 1985 and RCW 46.44.030 are each amended to read as follows:

It is unlawful for any person to operate upon the public highways of this state any vehicle other than a municipal transit vehicle having an overall length, with or without load, in excess of forty feet: PROVIDED, That an auto stage or school bus shall not exceed an overall length, inclusive of

front and rear bumpers, of forty feet: PROVIDED FURTHER, That the route of any auto stage in excess of thirty-five feet or school bus in excess of thirty-six feet six inches upon or across the public highways shall be limited as determined by the department of transportation for state highways, or by the local legislative authority for other public roads.

It is unlawful for any person to operate on the highways of this state any combination of vehicles that contains a vehicle (~~(of which the permanent structure is)~~) in excess of forty-eight feet, with or without load.

It is unlawful for any person to operate upon the public highways of this state any combination consisting of a tractor and semitrailer that has a semitrailer length in excess of forty-eight feet or a combination consisting of a tractor and two trailers in which the combined length of the trailers exceeds sixty feet, with or without load.

It is unlawful for any person to operate on the highways of this state any combination consisting of a truck and trailer with an overall length, with or without load, in excess of seventy-five feet. However, a combination of vehicles transporting automobiles or boats may have a front overhang of three feet and a rear overhang of four feet beyond this allowed length.

These length limitations do not apply to vehicles transporting poles, pipe, machinery, or other objects of a structural nature that cannot be dismembered and operated by a public utility when required for emergency repair of public service facilities or properties, but in respect to night transportation every such vehicle and load thereon shall be equipped with a sufficient number of clearance lamps on both sides and marker lamps upon the extreme ends of any projecting load to clearly mark the dimensions of the load.

The length limitations described in this section are exclusive of safety and energy conservation devices, such as mud flaps and splash and spray suppressant devices, refrigeration units or air compressors, and other devices that the department determines to be necessary for safe and efficient operation of commercial vehicles. No device excluded under this paragraph from the limitations of this section may have, by its design or use, the capability to carry cargo.

Passed the Senate February 9, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 29

[Second Substitute Senate Bill No. 6216]

COMMUNITY COLLEGE EXCEPTIONAL FACULTY AWARDS

AN ACT Relating to the community college exceptional faculty awards program; adding a new section to chapter 28B.52 RCW; and adding new sections to chapter 28B.50 RCW.

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

NEW SECTION. Sec. 1. The legislature recognizes that quality in the state's community colleges would be strengthened by additional partnerships between citizens and the institutions. The legislature intends to foster these partnerships by creating a matching grant program to assist public community colleges in creating endowments for funding exceptional faculty awards.

NEW SECTION. Sec. 2. (1) The Washington community college exceptional faculty awards program is established. The program shall be administered by the state board for community college education. The community college faculty awards trust fund hereby created shall be administered by the state treasurer.

(2) Funds appropriated by the legislature for the community college exceptional faculty awards program shall be deposited in the community college faculty awards trust fund. All moneys deposited in the fund shall be invested by the state treasurer. Notwithstanding RCW 43.84.090, all earnings of investments of balances in the fund shall be credited to the fund. At the request of the state board for community college education, the treasurer shall release the state matching funds to the designated institution's local endowment fund. No appropriation is necessary for the expenditure of moneys from the fund.

NEW SECTION. Sec. 3. (1) In consultation with eligible community colleges, the state board for community college education shall set priorities and guidelines for the program.

(2) Under this section, a community college shall not receive more than four faculty grants in twenty-five thousand dollar increments, with a maximum total of one hundred thousand dollars per campus in any biennium.

(3) All community colleges shall be eligible for matching trust funds. Institutions may apply to the state board for community college education for grants from the fund in twenty-five thousand dollar increments up to a maximum of one hundred thousand dollars when they can match the state funds with equal cash donations from private sources, except that in the initial year of the program, no college may receive more than one grant until every college has received one grant. These donations shall be made specifically to the exceptional faculty awards program and deposited by the institution in a local endowment fund. Otherwise unrestricted gifts may be deposited in the endowment fund by the institution.

(4) Once sufficient private donations are received by the institution, the institution shall inform the state board for community college education and request state matching funds. The state board for community college education shall evaluate the request for state matching funds based on program priorities and guidelines. The state board for community college education

may ask the state treasurer to release the state matching funds to a local endowment fund established by the institution for each faculty award created.

NEW SECTION. Sec. 4. (1) The faculty awards are the property of the institution and may be named in honor of a donor, benefactor, or honoree of the institution, at the option of the institution. The institution shall designate the use of the award. The designation shall be made or renewed annually.

(2) The institution is responsible for soliciting private donations, investing and maintaining its endowment funds, administering the faculty awards, and reporting on the program to the governor, the state board for community college education, and the legislature, upon request. The institution may augment its endowment fund with additional unrestricted private donations. The principal of the invested endowment fund shall not be invaded.

(3) The proceeds from the endowment fund shall be used to pay expenses for faculty awards, which may include in-service training, temporary substitute or replacement costs directly associated with faculty development programs, conferences, travel, publication and dissemination of exemplary projects; to supplement the salary of the holder or holders of a faculty award; or to pay expenses associated with the holder's program area. Funds from this program shall not be used to supplant existing faculty development funds.

NEW SECTION. Sec. 5. The process for determining local awards shall be subject to collective bargaining. Decisions regarding the amounts of individual awards and who receives them shall not be subject to collective bargaining and shall be subject to approval of the applicable community college board of trustees.

NEW SECTION. Sec. 6. A new section is added to chapter 28B.52 RCW to read as follows:

With respect to the community college faculty awards trust program, the permissible scope of collective bargaining under this chapter shall be governed by section 5 of this act.

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to chapter 28B.50 RCW.

NEW SECTION. Sec. 8. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the Senate February 12, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 30

[House Bill No. 1703]

STATE OFFICIALS AND EMPLOYEES—MEAL AND REFRESHMENT EXPENSES

AN ACT Relating to subsistence and travel expenses; and amending RCW 43.03.050 and 43.03.060.

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

Sec. 1. Section 43.03.050, chapter 8, Laws of 1965 as last amended by section 1, chapter 29, Laws of 1983 1st ex. sess. and RCW 43.03.050 are each amended to read as follows:

(1) The director of financial management shall prescribe reasonable allowances to cover reasonable and necessary subsistence and lodging expenses for elective and appointive officials and state employees while engaged on official business away from their designated posts of duty. The director of financial management may prescribe and regulate the allowances provided in lieu of subsistence and lodging expenses and may prescribe the conditions under which reimbursement for subsistence and lodging may be allowed. The schedule of allowances adopted by the office of financial management may include special allowances for foreign travel and other travel involving higher than usual costs for subsistence and lodging. The allowances established by the director shall not exceed the rates set by the federal government for federal employees.

(2) Those persons appointed to serve without compensation on any state board, commission, or committee, if entitled to payment of travel expenses, shall be paid pursuant to special per diem rates prescribed in accordance with subsection (1) of this section by the office of financial management.

(3) The director of financial management may prescribe reasonable allowances to cover reasonable expenses for meals, coffee, and light refreshment served to elective and appointive officials and state employees regardless of travel status at a meeting where: (a) The purpose of the meeting is to conduct official state business or to provide formal training to state employees or state officials; (b) the meals, coffee, or light refreshment are an integral part of the meeting or training session; (c) the meeting or training session takes place away from the employee's or official's regular workplace; and (d) the agency head or authorized designee approves payments in advance for the meals, coffee, or light refreshment. In order to prevent abuse, the director may regulate such allowances and prescribe additional conditions for claiming the allowances.

(4) Upon approval of the agency head or authorized designee, an agency may serve coffee or light refreshments at a meeting where: (a) The purpose of the meeting is to conduct state business or to provide formal training that benefits the state; and (b) the coffee or light refreshment is an

integral part of the meeting or training session. The director of financial management shall adopt requirements necessary to prohibit abuse of the authority authorized in this subsection.

(5) The ((initial)) schedule of allowances prescribed by the director under the terms of this section and any subsequent increases in any maximum allowance or special allowances for areas of higher than usual costs shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

Sec. 2. Section 43.03.060, chapter 8, Laws of 1965 as last amended by section 2, chapter 29, Laws of 1983 1st ex. sess. and RCW 43.03.060 are each amended to read as follows:

(1) Whenever it becomes necessary for ((an)) elective or appointive officials or employees of the state to travel away from ((his)) their designated posts of duty while engaged on official business, and it is found to be more advantageous ((and)) or economical to the state that travel be by a privately-owned vehicle rather than a common carrier or a state-owned or operated vehicle, a mileage rate ((not to exceed the rate)) established by the director of financial management shall be allowed. The mileage rate established by the director shall not exceed ((the rates set by the federal government for federal employees)) any rate set by the United States treasury department above which the substantiation requirements specified in Treasury Department Regulations section 1.274-5T(a)(1), as now law or hereafter amended, will apply.

(2) The director of financial management may prescribe and regulate the specific mileage rate or other allowance for the use of privately-owned vehicles or common carriers on official business and the conditions under which reimbursement of transportation costs may be allowed(~~(-PROVIDED, That))~~. The reimbursement or other payment for transportation expenses of any employee or appointive official of the state shall be based on the method deemed most advantageous ((and)) or economical to the state.

(3) The ((initial maximum)) mileage rate established by the director of financial management pursuant to this section and any subsequent changes thereto shall be reported to the ways and means committees of the house of representatives and the senate at each regular session of the legislature.

Passed the House January 19, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 31

[Senate Bill No. 6335]

NEGLIGENT OPERATION OF COMMERCIAL VESSELS

AN ACT Relating to commercial vessels; and amending RCW 88.02.095.

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

Sec. 1. Section 2, chapter 267, Laws of 1985 as last amended by section 6, chapter 373, Laws of 1987 and RCW 88.02.095 are each amended to read as follows:

(1) It shall be unlawful for any person to operate a vessel in a negligent manner(~~(; except a commercial vessel which has or is required to have a valid marine document as a vessel of the United States and is operating in the navigable waters of the United States)).~~ For the purpose of this section, to "operate in a negligent manner" shall be construed to mean the operation of a vessel in such manner as to endanger or be likely to endanger any persons or property.

(2) A person is guilty of operating a vessel while under the influence of intoxicating liquor or any drug if the person operates a vessel within this state while:

(a) The person has 0.10 grams or more of alcohol per two hundred ten liters of breath, as shown by analysis of the person's breath made under RCW 46.61.506; or

(b) The person has 0.10 percent or more by weight of alcohol in the person's blood, as shown by analysis of the person's blood made under RCW 46.61.506; or

(c) The person is under the influence of or affected by intoxicating liquor or any drug; or

(d) The person is under the combined influence of or affected by intoxicating liquor and any drug.

The fact that any person charged with a violation of this section is or has been entitled to use such drug under the laws of this state shall not constitute a defense against any charge of violating this section. A person cited under this subsection may upon request be given a breath test for breath alcohol or may request to have a blood sample taken for blood alcohol analysis. An arresting officer shall administer field sobriety tests when circumstances permit.

(3) For the purposes of this section, "vessel" means any watercraft used or capable of being used as a means of transportation on the water.

(4) For the purpose of this section, "vessel operator" means a person who is in actual physical control of a vessel.

(5) A violation of this section is a misdemeanor, punishable by up to ninety days in jail and by a fine of not more than one thousand dollars. In

addition, the court may order the defendant to pay restitution for any damages or injuries resulting from the offense.

Passed the Senate February 6, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 32

[House Bill No. 2032]

RECREATIONAL FACILITIES DEFINED

AN ACT Relating to parks and recreation districts; and amending RCW 36.69.010.

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

Sec. 1. Section 36.69.010, chapter 4, Laws of 1963 as last amended by section 1, chapter 94, Laws of 1972 ex. sess. and RCW 36.69.010 are each amended to read as follows:

Park and recreation districts are hereby authorized to be formed in each and every class of county as municipal corporations for the purpose of providing leisure time activities and facilities and recreational facilities, of a nonprofit nature as a public service to the residents of the geographical areas included within their boundaries.

The term "recreational facilities" means parks, playgrounds, gymnasiums, swimming pools, field houses, bathing beaches, stadiums, golf courses, automobile race tracks and drag strips, coliseums for the display of spectator sports, public campgrounds, boat ramps and launching sites, public hunting and fishing areas, arboretums, bicycle and bridle paths, senior citizen centers, community centers, and other recreational facilities.

Passed the House February 7, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 33

[House Bill No. 2276]

TITLE 28A RCW—REORGANIZATION

AN ACT Relating to reorganization of Title 28A RCW; amending RCW 28A.01.020, 28A.01.130, 28A.41.110, 28A.58.750, 28A.58.754, 28A.58.758, 28A.41.130, 28A.41.140, 28A.41.160, 28A.41.160, 28A.41.170, 28A.41.145, 28A.41.150, 28A.41.162, 28A.41.050, 28A.41.053, 28A.41.055, 28A.41.112, 28A.41.175, 28A.13.005, 28A.13.010, 28A.13.020, 28A.13.030, 28A.13.040, 28A.13.045, 28A.13.060, 28A.13.070, 28A.13.080, 28A.03.300, 28A.03.320, 28A.03.367, 28A.24.055, 28A.24.065, 28A.24.111, 28A.24.120, 28A.24.170, 28A.24.172, 28A.24.175, 28A.58.428, 28A.58.133, 28A.41.505, 28A.41.510, 28A.41.515, 28A.41.520, 28A.41.525, 28A.41.540, 28A.41.180, 28A.120.014, 28A.120.016, 28A.120.022,

28A.120.024, 28A.120.026, 28A.120.032, 28A.120.036, 28A.120.050, 28A.120.080, 28A.120-
 .082, 28A.120.084, 28A.120.086, 28A.120.062, 28A.120.064, 28A.120.068, 28A.58.800, 28A-
 .58.802, 28A.58.808, 28A.58.809, 28A.58.810, 28A.16.050, 28A.58.217, 28A.58.765,
 28A.58.770, 28A.58.772, 28A.58.774, 28A.58.776, 28A.58.778, 28A.02.240, 28A.27.310,
 28A.27.320, 28A.97.010, 28A.97.020, 28A.97.030, 28A.97.040, 28A.97.050, 28A.97.120,
 28A.97.125, 28A.97.130, 28A.31.040, 28A.31.050, 28A.31.100, 28A.31.102, 28A.31.104,
 28A.31.106, 28A.31.110, 28A.31.112, 28A.31.114, 28A.31.115, 28A.31.116, 28A.31.118,
 28A.31.120, 28A.31.130, 28A.31.132, 28A.31.134, 28A.31.136, 28A.31.138, 28A.31.139,
 28A.31.142, 28A.31.155, 28A.31.165, 28A.34.020, 28A.34.040, 28A.34.150, 28A.34.020,
 28A.34A.090, 28A.34A.110, 28A.34.110, 28A.34.130, 28A.08.010, 28A.27.010, 28A.27.022,
 28A.27.030, 28A.27.040, 28A.27.070, 28A.27.080, 28A.27.090, 28A.27.100, 28A.27.102,
 28A.27.104, 28A.27.110, 28A.27.120, 28A.27.130, 28A.27.140, 28A.58.215, 28A.58.225,
 28A.58.230, 28A.58.242, 28A.05.005, 28A.58.255, 28A.05.062, 28A.05.064, 28A.02.070,
 28A.29.020, 28A.30.030, 28A.30.060, 28A.30.070, 28A.30.080, 28A.58.136, 28A.03.423,
 28A.58.082, 28A.03.010, 28A.03.030, 28A.03.375, 28A.03.350, 28A.03.419, 28A.03.425,
 28A.03.511, 28A.04.010, 28A.04.020, 28A.04.030, 28A.04.040, 28A.04.050, 28A.04.060,
 28A.04.070, 28A.04.080, 28A.04.100, 28A.04.127, 28A.04.176, 28A.04.178, 28A.21.020,
 28A.21.030, 28A.21.034, 28A.21.035, 28A.21.040, 28A.21.050, 28A.21.086, 28A.21.088,
 28A.21.090, 28A.21.102, 28A.21.105, 28A.21.106, 28A.21.112, 28A.21.113, 28A.21.120,
 28A.21.135, 28A.21.136, 28A.21.138, 28A.21.170, 28A.21.200, 28A.21.210, 28A.21.310,
 28A.57.010, 28A.57.020, 28A.57.029, 28A.57.032, 28A.57.034, 28A.57.040, 28A.57.050,
 28A.57.055, 28A.57.060, 28A.57.070, 28A.57.080, 28A.57.090, 28A.57.110, 28A.57.120,
 28A.57.140, 28A.57.195, 28A.57.196, 28A.57.230, 28A.57.245, 28A.57.255, 28A.57.260,
 28A.57.280, 28A.57.322, 28A.57.324, 28A.57.328, 28A.57.334, 28A.57.336, 28A.57.342,
 28A.57.355, 28A.57.356, 28A.57.357, 28A.57.358, 28A.57.390, 28A.57.410, 28A.57.415,
 28A.57.425, 28A.57.435, 28A.57.900, 28A.58.630, 28A.58.107, 28A.58.620, 28A.58.085,
 28A.58.090, 28A.58.430, 28A.58.435, 28A.58.441, 28A.58.380, 28A.58.080, 28A.58.120,
 28A.59.030, 28A.59.040, 28A.59.060, 28A.59.070, 28A.59.080, 28A.59.110, 28A.59.150,
 28A.59.180, 28A.60.010, 28A.60.070, 28A.60.310, 28A.60.328, 28A.58.032, 28A.58.033,
 28A.58.034, 28A.58.036, 28A.58.037, 28A.58.040, 28A.58.075, 28A.58.131, 28A.02.110,
 28A.58.135, 28A.60.200, 28A.60.210, 28A.60.220, 28A.100.080, 28A.100.082, 28A.100.084,
 28A.100.086, 28A.100.088, 28A.100.090, 28A.61.030, 28A.66.010, 28A.66.020, 28A.66.040,
 28A.58.137, 28A.58.140, 28A.58.150, 28A.58.201, 28A.58.170, 28A.58.0951, 28A.58.1001,
 28A.67.030, 28A.67.035, 28A.67.065, 28A.67.220, 28A.67.225, 28A.67.230, 28A.67.072,
 28A.67.073, 28A.67.074, 28A.58.445, 28A.58.450, 28A.58.455, 28A.58.460, 28A.58.470,
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 28A.70.110, 28A.70.160, 28A.70.170, 28A.70.180, 28A.02.260, 28A.70.402, 28A.70.406,
 28A.71.100, 28A.71.110, 28A.65.405, 28A.65.420, 28A.65.425, 28A.65.430, 28A.65.445,
 28A.65.450, 28A.65.465, 28A.65.470, 28A.65.480, 28A.65.485, 28A.48.010, 28A.48.030,
 28A.48.100, 28A.02.300, 28A.02.310, 28A.47.090, 28A.47.776, 28A.47.777, 28A.47.778,
 28A.47.779, 28A.47.780, 28A.47.781, 28A.47.782, 28A.47.783, 28A.47.784, 28A.47.785,
 28A.47.786, 28A.47.787, 28A.47.788, 28A.47.789, 28A.47.790, 28A.47.791, 28A.47.792,
 28A.47.794, 28A.47.795, 28A.47.796, 28A.47.798, 28A.47.799, 28A.47.7991, 28A.47.801,
 28A.47.802, 28A.47.803, 28A.47.804, 28A.47.805, 28A.47.807, 28A.47.808, 28A.47.809,
 28A.47.810, 28A.47.811, 28A.47.830, 28A.47.842, 28A.47.843, 28A.47.844, 28A.47.845,
 28A.47.846, 28A.47B.010, 28A.47B.020, 28A.47B.040, 28A.47B.050, 28A.47B.060, 28A.47B-
 .070, 28A.47B.080, 28A.51.020, 28A.51.190, 28A.51.200, 28A.52.020, 28A.52.030, 28A.52-
 .060, 28A.52.080, 28A.56.040, 28A.56.060, 28A.56.070, 28A.44.150, 28A.44.160, 28A.44.180,
 28A.44.190, 28A.44.200, 28A.44.210, 28A.44.220, 28A.44.230, 28A.58.101, 28A.58.1011,
 28A.58.195, 28A.58.820, 28A.58.826, 28A.58.828, 28A.58.125, 28A.67.310, 28A.67.330,
 28A.130.010, 28A.130.012, 28A.130.014, 28A.58.642, 28A.58.644, 28A.58.720, 28A.58.722,
 28A.03.520, 28A.03.523, 28A.03.529, 28A.03.532, 28A.03.535, 28A.03.538, 28A.02.325,
 28A.58.842, 28A.03.438, 28A.120.094, 28A.120.096, 28A.100.025, 28A.100.032, 28A.100.034,
 28A.100.036, 28A.100.040, 28A.100.042, 28A.100.044, 28A.100.054, 28A.100.068, 28A.125-
 .020, 28A.125.030, 28A.125.040, 28A.87.010, 28A.87.090, 28A.87.130, 28A.87.135, 28A.87-
 .230, 28A.87.231, 28A.87.232, 28A.87.233, 28A.88.010, 28A.93.010, 28A.93.020, 28A.93.030,
 28A.92.010, 28A.92.030, 28A.92.040, 13.04.145, 18.71.030, 18.118.010, 18.120.010, 19.27-
 .080, 19.142.010, 28B.10.025, 28B.15.543, 28B.50.873, 28B.80.245, 28B.80.360, 29.13.020,
 29.13.060, 31.12.125, 35.13.125, 35.13.130, 39.33.070, 39.34.030, 41.04.655, 41.32.011, 41.59-
 .935, 41.59.940, 42.23.030, 43.17.205, 43.17.210, 43.19.455, 43.43.845, 43.46.095, 43.63A.066,
 43.70.900, 43.79.425, 43.99H.020, 43.230.010, 46.16.035, 46.61.385, 50.44.050, 69.50.435,

71A.20.050, 71A.20.070, 72.01.200, 72.05.130, 72.20.040, 74.09.524, 79.01.774, 84.09.037, 84.33.010, 84.33.020, 84.33.160, and 84.52.0531; reenacting and amending RCW 28A.02.201, 28A.04.120, 28A.58.099, 28A.67.070, 28A.70.040, 28A.58.246, 46.68.124, and 74.09.520; adding a new section to chapter 28A.900 RCW; creating new sections; recodifying Title 28A RCW; and decodifying RCW 28A.04.167, 28A.04.170, 28A.04.172, 28A.04.174, and 28A.70.900.

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

NEW SECTION. Sec. 1. (1) The purpose of this act is to reorganize Title 28A RCW. There are three goals to this reorganization: (a) To place related sections in chapters organized by subject matter; (b) to make all terms gender neutral; and (c) to clarify existing language. This act is technical in nature and is not intended to make substantive changes in the meaning, interpretation, court construction, or constitutionality of any provision of Title 28A RCW or other statutory provisions included in this act and rules adopted under those provisions.

(2) This act shall not have the effect of terminating or in any way modifying any proceedings or liability, civil or criminal, which exists on the effective date of this section.

NEW SECTION. Sec. 2. (1) The code reviser shall correct all statutory references to code sections recodified by section 4 of this act.

(2)(a) References to "RCW 28A.47.732 through 28A.47.748" in Title 28A RCW have intentionally not been changed since those code sections were repealed by chapter 189, Laws of 1983. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

(b) References to "RCW 28A.58.095" in Title 28A RCW have intentionally not been changed since that code section was repealed by chapter 2, Laws of 1987 1st ex. sess. These references are not being eliminated because it is not the purpose of this act to correct obsolete references.

NEW SECTION. Sec. 3. A new section is added to chapter 28A.900 RCW to read as follows:

Subheadings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 4. The following are each recodified:

PART I THE EDUCATION PROGRAMS

1. GENERAL PROVISIONS

A. Definitions

28A.01.055 as 28A.150.010;

28A.01.060 as 28A.150.020;

28A.01.010 as 28A.150.030;

28A.01.020 as 28A.150.040;

28A.02.061 as 28A.150.050;

28A.01.130 as 28A.150.060;

28A.02.020 as 28A.150.070;

28A.01.100 as 28A.150.080;

28A.01.110 as 28A.150.090;

28A.41.110 as 28A.150.100;

B. The Basic Education Act

28A.58.750 as 28A.150.200;

28A.58.752 as 28A.150.210;

28A.58.754 as 28A.150.220;

28A.58.758 as 28A.150.230;

28A.58.760 as 28A.150.240;

28A.41.130 as 28A.150.250;

28A.41.140 as 28A.150.260;

28A.41.143 as 28A.150.270;

28A.41.160 as 28A.150.280;

28A.41.170 as 28A.150.290;

28A.02.010 as 28A.150.295;

C. Appropriations and Adjustments

28A.41.145 as 28A.150.350;

28A.41.150 as 28A.150.360;

28A.41.162 as 28A.150.370;

28A.41.050 as 28A.150.380;

28A.41.053 as 28A.150.390;

28A.41.055 as 28A.150.400;

28A.41.112 as 28A.150.410;

28A.41.172 as 28A.150.420;

28A.41.175 as 28A.150.430;

2. SPECIAL EDUCATION

28A.13.005 as 28A.155.010;

28A.13.010 as 28A.155.020;

28A.13.020 as 28A.155.030;

28A.13.030 as 28A.155.040;

28A.13.040 as 28A.155.050;

28A.13.045 as 28A.155.060;

28A.13.050 as 28A.155.070;

28A.13.060 as 28A.155.080;

28A.13.070 as 28A.155.090;

28A.13.080 as 28A.155.100;

28A.03.300 as 28A.155.110;

28A.03.310 as 28A.155.120;

28A.03.320 as 28A.155.130;

28A.03.367 as 28A.155.140;

3. STUDENT TRANSPORTATION

28A.24.055 as 28A.160.010;

28A.24.065 as 28A.160.020;

28A.24.100 as 28A.160.030;

28A.24.110 as 28A.160.040;
28A.24.111 as 28A.160.050;
28A.24.112 as 28A.160.060;
28A.24.120 as 28A.160.070;
28A.24.170 as 28A.160.080;
28A.24.172 as 28A.160.090;
28A.24.175 as 28A.160.100;
28A.24.178 as 28A.160.110;
28A.24.180 as 28A.160.120;
28A.58.428 as 28A.160.130;
28A.58.133 as 28A.160.140;
28A.41.505 as 28A.160.150;
28A.41.510 as 28A.160.160;
28A.41.515 as 28A.160.170;
28A.41.520 as 28A.160.180;
28A.41.525 as 28A.160.190;
28A.41.540 as 28A.160.200;
28A.04.131 as 28A.160.210;
28A.41.180 as 28A.160.220;

4. LEARNING ASSISTANCE PROGRAM

28A.120.010 as 28A.165.010;
28A.120.012 as 28A.165.020;
28A.120.014 as 28A.165.030;
28A.120.016 as 28A.165.040;
28A.120.018 as 28A.165.050;
28A.120.020 as 28A.165.060;
28A.120.022 as 28A.165.070;
28A.120.024 as 28A.165.080;
28A.120.026 as 28A.165.090;

5. SUBSTANCE ABUSE AWARENESS PROGRAM

28A.120.030 as 28A.170.010;
28A.120.032 as 28A.170.020;
28A.120.034 as 28A.170.030;
28A.120.036 as 28A.170.040;
28A.120.038 as 28A.170.050;
28A.120.040 as 28A.170.060;
28A.120.050 as 28A.170.070;
28A.120.080 as 28A.170.075;
28A.120.082 as 28A.170.080;
28A.120.084 as 28A.170.090;
28A.120.086 as 28A.170.100;

6. DROPOUT PREVENTION AND RETRIEVAL PROGRAM

28A.58.087 as 28A.175.010;
28A.120.060 as 28A.175.020;

28A.120.062 as 28A.175.030;
28A.120.064 as 28A.175.040;
28A.120.068 as 28A.175.050;
28A.120.070 as 28A.175.060;
28A.120.072 as 28A.175.070;
28A.120.090 as 28A.175.080;
28A.120.092 as 28A.175.090;

7. TRANSITIONAL BILINGUAL INSTRUCTION PROGRAM

28A.58.800 as 28A.180.010;
28A.58.801 as 28A.180.020;
28A.58.802 as 28A.180.030;
28A.58.804 as 28A.180.040;
28A.58.806 as 28A.180.050;
28A.58.808 as 28A.180.060;
28A.58.809 as 28A.180.070;
28A.58.810 as 28A.180.080;

8. HIGHLY CAPABLE

28A.16.040 as 28A.185.010;
28A.16.050 as 28A.185.020;
28A.16.060 as 28A.185.030;
28A.58.217 as 28A.185.040;

9. RESIDENTIAL EDUCATION PROGRAMS

28A.58.765 as 28A.190.010;
28A.58.770 as 28A.190.020;
28A.58.772 as 28A.190.030;
28A.58.774 as 28A.190.040;
28A.58.776 as 28A.190.050;
28A.58.778 as 28A.190.060;

10. PRIVATE SCHOOLS

28A.02.201 as 28A.195.010;
28A.02.220 as 28A.195.020;
28A.02.230 as 28A.195.030;
28A.02.240 as 28A.195.040;
28A.02.250 as 28A.195.050;
28A.48.055 as 28A.195.060;

11. HOME-BASED INSTRUCTION

28A.27.310 as 28A.200.010;
28A.27.320 as 28A.200.020;

12. EDUCATIONAL CLINICS

28A.97.010 as 28A.205.010;
28A.97.020 as 28A.205.020;
28A.97.030 as 28A.205.030;
28A.97.040 as 28A.205.040;
28A.97.050 as 28A.205.050;

28A.97.110 as 28A.205.060;
28A.97.120 as 28A.205.070;
28A.97.125 as 28A.205.080;
28A.97.130 as 28A.205.090;

13. HEALTH—SCREENING AND REQUIREMENTS

28A.31.005 as 28A.210.005;
28A.31.010 as 28A.210.010;
28A.31.030 as 28A.210.020;
28A.31.040 as 28A.210.030;
28A.31.050 as 28A.210.040;
28A.31.060 as 28A.210.050;
28A.31.100 as 28A.210.060;
28A.31.102 as 28A.210.070;
28A.31.104 as 28A.210.080;
28A.31.106 as 28A.210.090;
28A.31.110 as 28A.210.100;
28A.31.112 as 28A.210.110;
28A.31.114 as 28A.210.120;
28A.31.115 as 28A.210.130;
28A.31.116 as 28A.210.140;
28A.31.117 as 28A.210.150;
28A.31.118 as 28A.210.160;
28A.31.120 as 28A.210.170;
28A.31.130 as 28A.210.180;
28A.31.132 as 28A.210.190;
28A.31.134 as 28A.210.200;
28A.31.136 as 28A.210.210;
28A.31.138 as 28A.210.220;
28A.31.139 as 28A.210.230;
28A.31.140 as 28A.210.240;
28A.31.142 as 28A.210.250;
28A.31.150 as 28A.210.260;
28A.31.155 as 28A.210.270;
28A.31.160 as 28A.210.280;
28A.31.165 as 28A.210.290;
28A.60.320 as 28A.210.300;
28A.31.170 as 28A.210.310;

**14. EARLY CHILDHOOD, PRESCHOOLS, AND BEFORE-
AND-AFTER SCHOOL CARE**

A. Nursery Schools, Preschools, and Before-and-After School Care
28A.34.010 as 28A.215.010;
28A.34.020 as 28A.215.020;
28A.34.040 as 28A.215.030;
28A.34.050 as 28A.215.040;

28A.34.150 as 28A.215.050;

B. Early Childhood Assistance Program

28A.34A.010 as 28A.215.100;

28A.34A.020 as 28A.215.110;

28A.34A.030 as 28A.215.120;

28A.34A.040 as 28A.215.130;

28A.34A.050 as 28A.215.140;

28A.34A.060 as 28A.215.150;

28A.34A.070 as 28A.215.160;

28A.34A.080 as 28A.215.170;

28A.34A.090 as 28A.215.180;

28A.34A.100 as 28A.215.190;

28A.34A.110 as 28A.215.200;

28A.34A.900 as 28A.215.904;

28A.34A.904 as 28A.215.900;

28A.34A.906 as 28A.215.906;

28A.34A.908 as 28A.215.908;

C. Voluntary Accreditation of Preschools

28A.34.100 as 28A.215.300;

28A.34.110 as 28A.215.310;

28A.34.120 as 28A.215.320;

28A.34.130 as 28A.215.330;

15. TRAFFIC SAFETY

28A.08.005 as 28A.220.010;

28A.08.010 as 28A.220.020;

28A.08.020 as 28A.220.030;

28A.08.070 as 28A.220.040;

28A.08.080 as 28A.220.050;

28A.08.900 as 28A.220.900;

**16. COMPULSORY SCHOOL ATTENDANCE AND
ADMISSION**

28A.27.010 as 28A.225.010;

28A.27.020 as 28A.225.020;

28A.27.022 as 28A.225.030;

28A.27.030 as 28A.225.040;

28A.27.040 as 28A.225.050;

28A.27.070 as 28A.225.060;

28A.27.080 as 28A.225.070;

28A.27.090 as 28A.225.080;

28A.27.100 as 28A.225.090;

28A.27.102 as 28A.225.100;

28A.27.104 as 28A.225.110;

28A.27.110 as 28A.225.120;

28A.27.120 as 28A.225.130;

28A.27.130 as 28A.225.140;
28A.27.140 as 28A.225.150;
28A.58.190 as 28A.225.160;
28A.58.210 as 28A.225.170;
28A.58.215 as 28A.225.180;
28A.58.220 as 28A.225.190;
28A.58.225 as 28A.225.200;
28A.58.230 as 28A.225.210;
28A.58.235 as 28A.225.215;
28A.58.240 as 28A.225.220;
28A.58.242 as 28A.225.230;
28A.58.243 as 28A.225.240;
28A.58.245 as 28A.225.250;
28A.58.250 as 28A.225.260;

17. COMPULSORY COURSEWORK AND ACTIVITIES

28A.05.005 as 28A.230.010;
28A.05.010 as 28A.230.020;
28A.05.015 as 28A.230.030;
28A.05.030 as 28A.230.040;
28A.05.040 as 28A.230.050;
28A.05.050 as 28A.230.060;
28A.05.055 as 28A.230.070;
28A.58.255 as 28A.230.080;
28A.05.060 as 28A.230.090;
28A.05.062 as 28A.230.100;
28A.05.064 as 28A.230.110;
28A.58.108 as 28A.230.120;
28A.05.070 as 28A.230.130;
28A.02.030 as 28A.230.140;
28A.02.090 as 28A.230.150;
28A.02.070 as 28A.230.160;
28A.02.080 as 28A.230.170;
28A.58.535 as 28A.230.180;
28A.03.360 as 28A.230.190;
28A.03.365 as 28A.230.200;
28A.03.370 as 28A.230.210;

18. FOOD SERVICES

28A.29.010 as 28A.235.010;
28A.29.020 as 28A.235.020;
28A.29.030 as 28A.235.030;
28A.30.010 as 28A.235.040;
28A.30.020 as 28A.235.050;
28A.30.030 as 28A.235.060;
28A.30.040 as 28A.235.070;

28A.30.050 as 28A.235.080;
28A.30.060 as 28A.235.090;
28A.30.070 as 28A.235.100;
28A.30.080 as 28A.235.110;
28A.58.136 as 28A.235.120;
28A.31.020 as 28A.235.130;
28A.29.040 as 28A.235.140;

19. SCHOOL-BASED MANAGEMENT

28A.03.423 as 28A.240.010;
28A.58.081 as 28A.240.020;
28A.58.082 as 28A.240.030;

**PART II
ORGANIZATION**

20. SUPERINTENDENT OF PUBLIC INSTRUCTION

28A.03.010 as 28A.300.010;
28A.03.020 as 28A.300.020;
28A.03.028 as 28A.300.030;
28A.03.030 as 28A.300.040;
28A.03.375 as 28A.300.050;
28A.03.350 as 28A.300.060;
28A.02.100 as 28A.300.070;
28A.03.415 as 28A.300.080;
28A.03.417 as 28A.300.090;
28A.03.419 as 28A.300.100;
28A.03.425 as 28A.300.110;
28A.03.500 as 28A.300.120;
28A.03.510 as 28A.300.130;
28A.03.511 as 28A.300.140;
28A.03.512 as 28A.300.150;
28A.03.514 as 28A.300.160;
28A.41.040 as 28A.300.170;
28A.67.270 as 28A.300.180;

21. STATE BOARD OF EDUCATION

28A.04.010 as 28A.305.010;
28A.04.020 as 28A.305.020;
28A.04.030 as 28A.305.030;
28A.04.040 as 28A.305.040;
28A.04.050 as 28A.305.050;
28A.04.060 as 28A.305.060;
28A.04.065 as 28A.305.070;
28A.04.070 as 28A.305.080;
28A.04.080 as 28A.305.090;
28A.04.090 as 28A.305.100;

28A.04.100 as 28A.305.110;
28A.04.110 as 28A.305.120;
28A.04.120 as 28A.305.130;
28A.04.127 as 28A.305.140;
28A.04.130 as 28A.305.150;
28A.04.132 as 28A.305.160;
28A.04.133 as 28A.305.170;
28A.04.134 as 28A.305.180;
28A.04.135 as 28A.305.190;
28A.04.140 as 28A.305.200;
28A.04.145 as 28A.305.210;
28A.04.155 as 28A.305.220;
28A.04.165 as 28A.305.230;
28A.04.176 as 28A.305.240;
28A.04.178 as 28A.305.250;
28A.67.250 as 28A.305.260;
28A.67.260 as 28A.305.270;

22. EDUCATIONAL SERVICE DISTRICTS

28A.21.010 as 28A.310.010;
28A.21.020 as 28A.310.020;
28A.21.030 as 28A.310.030;
28A.21.0303 as 28A.310.040;
28A.21.0304 as 28A.310.050;
28A.21.0305 as 28A.310.060;
28A.21.0306 as 28A.310.070;
28A.21.031 as 28A.310.080;
28A.21.032 as 28A.310.090;
28A.21.033 as 28A.310.100;
28A.21.034 s 28A.310.110;
28A.21.035 as 28A.310.120;
28A.21.037 as 28A.310.130;
28A.21.040 as 28A.310.140;
28A.21.050 as 28A.310.150;
28A.21.060 as 28A.310.160;
28A.21.071 as 28A.310.170;
28A.21.086 as 28A.310.180;
28A.21.088 as 28A.310.190;
28A.21.090 as 28A.310.200;
28A.21.092 as 28A.310.210;
28A.21.095 as 28A.310.220;
28A.21.100 as 28A.310.230;
28A.21.102 as 28A.310.240;
28A.21.105 as 28A.310.250;
28A.21.106 as 28A.310.260;

28A.21.110 as 28A.310.270;
28A.21.111 as 28A.310.280;
28A.21.112 as 28A.310.290;
28A.21.113 as 28A.310.300;
28A.21.120 as 28A.310.310;
28A.21.130 as 28A.310.320;
28A.21.135 as 28A.310.330;
28A.21.136 as 28A.310.340;
28A.21.137 as 28A.310.350;
28A.21.138 as 28A.310.360;
28A.21.140 as 28A.310.370;
28A.21.160 as 28A.310.380;
28A.21.170 as 28A.310.390;
28A.21.195 as 28A.310.400;
28A.21.200 as 28A.310.410;
28A.21.210 as 28A.310.420;
28A.21.220 as 28A.310.430;
28A.21.255 as 28A.310.440;
28A.21.300 as 28A.310.450;
28A.21.310 as 28A.310.460;
28A.21.350 as 28A.310.470;
28A.21.355 as 28A.310.480;
28A.21.360 as 28A.310.490;
28A.21.900 as 28A.310.900;

23. ORGANIZATION AND REORGANIZATION OF SCHOOL DISTRICTS

28A.57.010 as 28A.315.010;
28A.57.020 as 28A.315.020;
28A.57.029 as 28A.315.030;
28A.57.030 as 28A.315.040;
28A.57.031 as 28A.315.050;
28A.57.032 as 28A.315.060;
28A.57.033 as 28A.315.070;
28A.57.034 as 28A.315.080;
28A.57.035 as 28A.315.090;
28A.57.040 as 28A.315.100;
28A.57.050 as 28A.315.110;
28A.57.055 as 28A.315.120;
28A.57.057 as 28A.315.130;
28A.57.060 as 28A.315.140;
28A.57.070 as 28A.315.150;
28A.57.075 as 28A.315.160;
28A.57.080 as 28A.315.170;
28A.57.090 as 28A.315.180;

28A.57.100 as 28A.315.190;
28A.57.110 as 28A.315.200;
28A.57.120 as 28A.315.210;
28A.57.130 as 28A.315.220;
28A.57.140 as 28A.315.230;
28A.57.145 as 28A.315.240;
28A.57.150 as 28A.315.250;
28A.57.160 as 28A.315.260;
28A.57.170 as 28A.315.270;
28A.57.180 as 28A.315.280;
28A.57.190 as 28A.315.290;
28A.57.195 as 28A.315.300;
28A.57.196 as 28A.315.310;
28A.57.200 as 28A.315.320;
28A.57.210 as 28A.315.330;
28A.57.220 as 28A.315.340;
28A.57.230 as 28A.315.350;
28A.57.240 as 28A.315.360;
28A.57.245 as 28A.315.370;
28A.57.250 as 28A.315.380;
28A.57.255 as 28A.315.390;
28A.57.260 as 28A.315.400;
28A.57.270 as 28A.315.410;
28A.57.280 as 28A.315.420;
28A.57.290 as 28A.315.430;
28A.57.300 as 28A.315.440;
28A.57.312 as 28A.315.450;
28A.57.313 as 28A.315.460;
28A.57.314 as 28A.315.470;
28A.57.316 as 28A.315.480;
28A.57.318 as 28A.315.490;
28A.57.322 as 28A.315.500;
28A.57.324 as 28A.315.510;
28A.57.325 as 28A.315.520;
28A.57.326 as 28A.315.530;
28A.57.327 as 28A.315.540;
28A.57.328 as 28A.315.550;
28A.57.334 as 28A.315.560;
28A.57.336 as 28A.315.570;
28A.57.342 as 28A.315.580;
28A.57.344 as 28A.315.590;
28A.57.355 as 28A.315.600;
28A.57.356 as 28A.315.610;
28A.57.357 as 28A.315.620;

28A.57.358 as 28A.315.630;
28A.57.390 as 28A.315.640;
28A.57.410 as 28A.315.650;
28A.57.415 as 28A.315.660;
28A.57.425 as 28A.315.670;
28A.57.435 as 28A.315.680;
28A.58.600 as 28A.315.690;
28A.58.601 as 28A.315.700;
28A.58.602 as 28A.315.710;
28A.58.603 as 28A.315.720;
28A.57.900 as 28A.315.900;

24. PROVISIONS APPLICABLE TO ALL DISTRICTS

A. District Powers

28A.58.010 as 28A.320.010;
28A.58.020 as 28A.320.020;
28A.58.030 as 28A.320.030;
28A.58.110 as 28A.320.040;
28A.58.310 as 28A.320.050;
28A.58.630 as 28A.320.060;
28A.58.410 as 28A.320.070;
28A.58.107 as 28A.320.080;
28A.58.610 as 28A.320.090;
28A.58.620 as 28A.320.100;
28A.58.530 as 28A.320.110;

B. Program Evaluation

28A.58.085 as 28A.320.200;
28A.58.090 as 28A.320.210;
28A.58.094 as 28A.320.220;
28A.58.103 as 28A.320.230;
28A.58.104 as 28A.320.240;

C. Deposit, Investment of Funds, and Use of Proceeds

28A.58.430 as 28A.320.300;
28A.58.435 as 28A.320.310;
28A.58.440 as 28A.320.320;
28A.58.441 as 28A.320.330;

D. Electors—Qualifications, Voting Place, and Special Meetings

28A.58.520 as 28A.320.400;
28A.58.521 as 28A.320.410;
28A.58.370 as 28A.320.420;
28A.58.380 as 28A.320.430;
28A.58.390 as 28A.320.440;

E. Summer School, Night School, Extracurricular Activities, and Athletics

28A.58.080 as 28A.320.500;

28A.58.105 as 28A.320.510;

25. ASSOCIATED STUDENT BODIES

28A.58.113 as 28A.325.010;

28A.58.115 as 28A.325.020;

28A.58.120 as 28A.325.030;

26. PROVISIONS APPLICABLE TO SCHOOL DISTRICTS

A. Provisions Applicable Only to First Class School Districts

28A.59.030 as 28A.330.010;

28A.59.040 as 28A.330.020;

28A.59.050 as 28A.330.030;

28A.59.060 as 28A.330.040;

28A.59.070 as 28A.330.050;

28A.59.080 as 28A.330.060;

28A.59.100 as 28A.330.070;

28A.59.110 as 28A.330.080;

28A.59.150 as 28A.330.090;

28A.59.180 as 28A.330.100;

28A.59.185 as 28A.330.110;

B. Provisions Applicable Only to Second Class School Districts

28A.60.010 as 28A.330.200;

28A.60.070 as 28A.330.210;

28A.60.310 as 28A.330.220;

28A.60.328 as 28A.330.230;

28A.60.360 as 28A.330.240;

27. SCHOOL DISTRICTS' PROPERTY ACQUISITION, OPERATION, CLOSURE, AND DISPOSAL

28A.58.102 as 28A.335.010;

28A.58.031 as 28A.335.020;

28A.58.032 as 28A.335.030;

28A.58.033 as 28A.335.040;

28A.58.034 as 28A.335.050;

28A.58.035 as 28A.335.060;

28A.58.036 as 28A.335.070;

28A.58.037 as 28A.335.080;

28A.58.040 as 28A.335.090;

28A.58.0401 as 28A.335.100;

28A.58.044 as 28A.335.110;

28A.58.045 as 28A.335.120;

28A.58.0461 as 28A.335.130;

28A.58.047 as 28A.335.140;

28A.58.048 as 28A.335.150;

28A.58.075 as 28A.335.160;

28A.58.131 as 28A.335.170;

28A.02.110 as 28A.335.180;

28A.58.135 as 28A.335.190;
28A.58.550 as 28A.335.200;
28A.58.055 as 28A.335.210;
28A.58.070 as 28A.335.220;
28A.47.105 as 28A.335.230;
28A.60.181 as 28A.335.240;
28A.60.190 as 28A.335.250;
28A.60.200 as 28A.335.260;
28A.60.210 as 28A.335.270;
28A.60.220 as 28A.335.280;
28A.60.350 as 28A.335.290;

28. SMALL HIGH SCHOOL COOPERATIVE PROJECTS

28A.100.080 as 28A.340.010;
28A.100.082 as 28A.340.020;
28A.100.084 as 28A.340.030;
28A.100.086 as 28A.340.040;
28A.100.088 as 28A.340.050;
28A.100.090 as 28A.340.060;
28A.100.092 as 28A.340.070;

29. WASHINGTON STATE SCHOOL DIRECTORS' ASSOCIATION

28A.61.010 as 28A.345.010;
28A.61.020 as 28A.345.020;
28A.61.030 as 28A.345.030;
28A.61.040 as 28A.345.040;
28A.61.050 as 28A.345.050;
28A.61.070 as 28A.345.060;
28A.61.900 as 28A.345.900;
28A.61.910 as 28A.345.902;

30. SCHOOL DISTRICT WARRANTS—AUDITORS' DUTIES

28A.66.010 as 28A.350.010;
28A.66.020 as 28A.350.020;
28A.66.030 as 28A.350.030;
28A.66.040 as 28A.350.040;
28A.66.050 as 28A.350.050;
28A.66.070 as 28A.350.060;
28A.66.080 as 28A.350.070;

**PART III
EMPLOYEES**

31. EMPLOYEES

A. Superintendents

28A.58.137 as 28A.400.010;
28A.58.140 as 28A.400.020;

28A.58.150 as 28A.400.030;

B. Principals

28A.58.160 as 28A.400.100;

28A.58.201 as 28A.400.110;

C. Delivery of Materials to Successors

28A.58.170 as 28A.400.150;

D. Salary and Compensation

28A.58.0951 as 28A.400.200;

28A.58.096 as 28A.400.210;

28A.58.098 as 28A.400.220;

28A.58.730 as 28A.400.230;

28A.58.740 as 28A.400.240;

28A.58.560 as 28A.400.250;

28A.58.565 as 28A.400.260;

E. Hiring and Discharge

28A.58.099 as 28A.400.300;

28A.02.050 as 28A.400.310;

28A.58.1001 as 28A.400.320;

28A.58.1002 as 28A.400.330;

F. Insurance

28A.58.420 as 28A.400.350;

28A.58.423 as 28A.400.360;

28A.58.425 as 28A.400.370;

28A.58.0991 as 28A.400.380;

32. CERTIFICATED EMPLOYEES

A. Qualifications

28A.67.010 as 28A.405.010;

28A.67.020 as 28A.405.020;

28A.67.110 as 28A.405.030;

28A.67.030 as 28A.405.040;

28A.67.035 as 28A.405.050;

28A.67.060 as 28A.405.060;

28A.58.580 as 28A.405.070;

B. Criteria for Evaluation and Model Programs

28A.67.065 as 28A.405.100;

28A.67.205 as 28A.405.110;

28A.67.210 as 28A.405.120;

28A.67.215 as 28A.405.130;

28A.67.220 as 28A.405.140;

28A.67.225 as 28A.405.150;

28A.67.230 as 28A.405.160;

C. Conditions and Contracts of Employment

28A.67.066 as 28A.405.200;

28A.67.070 as 28A.405.210;

28A.67.072 as 28A.405.220;

28A.67.073 as 28A.405.230;

28A.67.074 as 28A.405.240;

28A.58.445 as 28A.405.250;

D. Adverse Change in Contract

28A.58.450 as 28A.405.300;

28A.58.455 as 28A.405.310;

28A.58.460 as 28A.405.320;

28A.58.470 as 28A.405.330;

28A.58.480 as 28A.405.340;

28A.58.490 as 28A.405.350;

28A.58.500 as 28A.405.360;

28A.58.510 as 28A.405.370;

28A.58.515 as 28A.405.380;

E. Payroll Deduction

28A.67.095 as 28A.405.400;

28A.67.096 as 28A.405.410;

F. Teacher Assistance Program

28A.67.240 as 28A.405.450;

28A.58.275 as 28A.405.460;

28A.67.900 as 28A.405.900;

G. Termination of Certificated Staff

28A.58.1003 as 28A.405.470;

33. CERTIFICATION

28A.70.005 as 28A.410.010;

28A.04.122 as 28A.410.020;

28A.70.010 as 28A.410.030;

28A.70.040 as 28A.410.040;

28A.70.042 as 28A.410.050;

28A.70.110 as 28A.410.060;

28A.70.130 as 28A.410.070;

28A.01.025 as 28A.410.080;

28A.70.160 as 28A.410.090;

28A.70.170 as 28A.410.100;

28A.70.180 as 28A.410.110;

28A.02.260 as 28A.410.120;

28A.87.020 as 28A.410.130;

28A.70.395 as 28A.410.140;

28A.70.400 as 28A.410.150;

28A.70.402 as 28A.410.160;

28A.70.404 as 28A.410.170;

28A.70.406 as 28A.410.180;

28A.70.408 as 28A.410.190;

28A.70.900 as 28A.410.900;

34. TEACHERS' INSTITUTES, WORKSHOPS, AND OTHER
IN-SERVICE TRAINING

- 28A.71.100 as 28A.415.010;
- 28A.71.110 as 28A.415.020;
- 28A.71.200 as 28A.415.030;
- 28A.71.210 as 28A.415.040;
- 28A.71.220 as 28A.415.050;

PART IV
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35. LOCAL EFFORT ASSISTANCE

- 28A.41.155 as 28A.500.010;

36. SCHOOL DISTRICT BUDGETS

- 28A.65.400 as 28A.505.010;
- 28A.65.405 as 28A.505.020;
- 28A.65.410 as 28A.505.030;
- 28A.65.415 as 28A.505.040;
- 28A.65.420 as 28A.505.050;
- 28A.65.425 as 28A.505.060;
- 28A.65.430 as 28A.505.070;
- 28A.65.435 as 28A.505.080;
- 28A.65.440 as 28A.505.090;
- 28A.65.445 as 28A.505.100;
- 28A.65.450 as 28A.505.110;
- 28A.65.455 as 28A.505.120;
- 28A.65.460 as 28A.505.130;
- 28A.65.465 as 28A.505.140;
- 28A.65.470 as 28A.505.150;
- 28A.65.475 as 28A.505.160;
- 28A.65.480 as 28A.505.170;
- 28A.65.485 as 28A.505.180;
- 28A.65.490 as 28A.505.190;

37. APPORTIONMENT TO DISTRICT—DISTRICT
ACCOUNTING

- 28A.48.010 as 28A.510.250;
- 28A.48.030 as 28A.510.260;
- 28A.48.100 as 28A.510.270;

38. COMMON SCHOOL CONSTRUCTION FUND

- 28A.40.010 as 28A.515.300;
- 28A.40.020 as 28A.515.310;
- 28A.40.100 as 28A.515.320;

39. FOREST RESERVE FUNDS DISTRIBUTION

- 28A.02.300 as 28A.520.010;
- 28A.02.310 as 28A.520.020;

40. BOND ISSUES

28A.47.050 as 28A.525.010;
28A.47.060 as 28A.525.020;
28A.47.073 as 28A.525.030;
28A.47.075 as 28A.525.040;
28A.47.080 as 28A.525.050;
28A.47.090 as 28A.525.060;
28A.47.100 as 28A.525.070;
28A.47.120 as 28A.525.080;
28A.47.775 as 28A.525.100;
28A.47.776 as 28A.525.102;
28A.47.777 as 28A.525.104;
28A.47.778 as 28A.525.106;
28A.47.779 as 28A.525.108;
28A.47.780 as 28A.525.110;
28A.47.781 as 28A.525.112;
28A.47.782 as 28A.525.114;
28A.47.783 as 28A.525.116;
28A.47.784 as 28A.525.120;
28A.47.785 as 28A.525.122;
28A.47.786 as 28A.525.124;
28A.47.787 as 28A.525.126;
28A.47.788 as 28A.525.128;
28A.47.789 as 28A.525.130;
28A.47.790 as 28A.525.132;
28A.47.791 as 28A.525.134;
28A.47.792 as 28A.525.140;
28A.47.793 as 28A.525.142;
28A.47.794 as 28A.525.144;
28A.47.795 as 28A.525.146;
28A.47.796 as 28A.525.148;
28A.47.797 as 28A.525.150;
28A.47.798 as 28A.525.152;
28A.47.799 as 28A.525.154;
28A.47.7991 as 28A.525.156;
28A.47.7992 as 28A.525.158;
28A.47.800 as 28A.525.160;
28A.47.801 as 28A.525.162;
28A.47.802 as 28A.525.164;
28A.47.803 as 28A.525.166;
28A.47.804 as 28A.525.168;
28A.47.805 as 28A.525.170;
28A.47.806 as 28A.525.172;
28A.47.807 as 28A.525.174;

28A.47.808 as 28A.525.176;
28A.47.809 as 28A.525.178;
28A.47.810 as 28A.525.180;
28A.47.811 as 28A.525.182;
28A.47.820 as 28A.525.190;
28A.47.830 as 28A.525.200;
28A.47.840 as 28A.525.210;
28A.47.841 as 28A.525.212;
28A.47.842 as 28A.525.214;
28A.47.843 as 28A.525.216;
28A.47.844 as 28A.525.218;
28A.47.845 as 28A.525.220;
28A.47.846 as 28A.525.222;
28A.47B.010 as 28A.525.230;
28A.47B.020 as 28A.525.240;
28A.47B.030 as 28A.525.250;
28A.47B.040 as 28A.525.260;
28A.47B.050 as 28A.525.270;
28A.47B.060 as 28A.525.280;
28A.47B.070 as 28A.525.290;
28A.47B.080 as 28A.525.300;

41. DISTRICT BONDS FOR LAND, BUILDINGS, AND EQUIPMENT

28A.51.010 as 28A.530.010;
28A.51.020 as 28A.530.020;
28A.51.070 as 28A.530.030;
28A.51.180 as 28A.530.040;
28A.51.190 as 28A.530.050;
28A.51.200 as 28A.530.060;
28A.51.220 as 28A.530.070;

42. VALIDATING INDEBTEDNESS

28A.52.010 as 28A.535.010;
28A.52.020 as 28A.535.020;
28A.52.030 as 28A.535.030;
28A.52.040 as 28A.535.040;
28A.52.050 as 28A.535.050;
28A.52.060 as 28A.535.060;
28A.52.070 as 28A.535.070;
28A.52.080 as 28A.535.080;

43. CAPITAL FUND AID BY NONHIGH DISTRICTS

28A.56.005 as 28A.540.010;
28A.56.010 as 28A.540.020;
28A.56.020 as 28A.540.030;
28A.56.030 as 28A.540.040;

28A.56.040 as 28A.540.050;

28A.56.050 as 28A.540.060;

28A.56.060 as 28A.540.070;

28A.56.070 as 28A.540.080;

28A.56.075 as 28A.540.090;

28A.56.170 as 28A.540.100;

28A.56.200 as 28A.540.110;

44. PAYMENT TO HIGH SCHOOL DISTRICTS

28A.44.045 as 28A.545.010;

28A.44.095 as 28A.545.020;

28A.44.150 as 28A.545.030;

28A.44.160 as 28A.545.040;

28A.44.170 as 28A.545.050;

28A.44.180 as 28A.545.060;

28A.44.190 as 28A.545.070;

28A.44.200 as 28A.545.080;

28A.44.210 as 28A.545.090;

28A.44.220 as 28A.545.100;

28A.44.230 as 28A.545.110;

45. STATE SCHOOL EQUALIZATION FUND

28A.46.010 as 28A.550.010;

PART V

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46. STUDENTS

28A.58.101 as 28A.600.010;

28A.58.1011 as 28A.600.020;

28A.58.195 as 28A.600.030;

28A.58.200 as 28A.600.040;

28A.03.440 as 28A.600.050;

28A.03.442 as 28A.600.060;

28A.03.444 as 28A.600.070;

28A.03.446 as 28A.600.080;

28A.58.820 as 28A.600.100;

28A.58.822 as 28A.600.110;

28A.58.824 as 28A.600.120;

28A.58.826 as 28A.600.130;

28A.58.828 as 28A.600.140;

28A.58.830 as 28A.600.150;

28A.58.125 as 28A.600.200;

28A.67.300 as 28A.600.210;

28A.67.310 as 28A.600.220;

28A.67.320 as 28A.600.230;

28A.67.330 as 28A.600.240;

47. PARENT ACCESS

28A.58.050 as 28A.605.010;

28A.58.053 as 28A.605.020;

48. PROJECT EVEN START

28A.130.010 as 28A.610.010;

28A.130.012 as 28A.610.020;

28A.130.014 as 28A.610.030;

28A.130.016 as 28A.610.040;

28A.130.018 as 28A.610.050;

28A.130.020 as 28A.610.060;

49. SCHOOL INVOLVEMENT PROGRAM

28A.58.640 as 28A.615.010;

28A.58.642 as 28A.615.020;

28A.58.644 as 28A.615.030;

28A.58.646 as 28A.615.040;

28A.58.648 as 28A.615.050;

28A.03.550 as 28A.615.060;

50. COMMUNITY EDUCATION PROGRAM

28A.58.246 as 28A.620.010;

28A.58.247 as 28A.620.020;

51. MEAL PROGRAM FOR THE ELDERLY

28A.58.720 as 28A.623.010;

28A.58.722 as 28A.623.020;

28A.58.724 as 28A.623.030;

PART VI

AWARDS AND SPECIAL PROJECTS

52. AWARDS

A. Excellence in Education Awards

28A.03.520 as 28A.625.010;

28A.03.523 as 28A.625.020;

28A.03.526 as 28A.625.030;

28A.03.529 as 28A.625.040;

28A.03.532 as 28A.625.050;

28A.03.535 as 28A.625.060;

28A.03.538 as 28A.625.070;

B. Employee Suggestion Program

28A.02.320 as 28A.625.100;

28A.02.325 as 28A.625.110;

C. Commendable Employee Service and Recognition Award

28A.58.842 as 28A.625.150;

D. Mathematics, Engineering, and Science Achievement Award

28A.03.430 as 28A.625.200;

28A.03.432 as 28A.625.210;

28A.03.434 as 28A.625.220;

28A.03.436 as 28A.625.230;

28A.03.438 as 28A.625.240;

E. School Improvement and Research Projects

28A.67.115 as 28A.625.300;

53. TEMPORARY PROVISIONS—SPECIAL PROJECTS

A. Educational Outcomes

28A.100.017 as 28A.630.010;

28A.100.018 as 28A.630.020;

28A.100.019 as 28A.630.030;

28A.100.020 as 28A.630.040;

28A.120.094 as 28A.630.050;

28A.120.096 as 28A.630.060;

28A.100.025 as 28A.630.090;

28A.100.026 as 28A.630.091;

B. Schools for the Twenty-First Century

28A.100.030 as 28A.630.100;

28A.100.032 as 28A.630.110;

28A.100.034 as 28A.630.120;

28A.100.036 as 28A.630.130;

28A.100.038 as 28A.630.140;

28A.100.040 as 28A.630.150;

28A.100.042 as 28A.630.160;

28A.100.044 as 28A.630.170;

28A.100.048 as 28A.630.180;

28A.100.050 as 28A.630.190;

28A.100.052 as 28A.630.200;

28A.100.054 as 28A.630.210;

28A.100.056 as 28A.630.220;

28A.100.058 as 28A.630.230;

28A.100.068 as 28A.630.290;

C. International Education

28A.125.010 as 28A.630.300;

28A.125.020 as 28A.630.310;

28A.125.030 as 28A.630.320;

28A.125.040 as 28A.630.330;

28A.125.100 as 28A.630.340;

28A.125.900 as 28A.630.390;

D. Development of Educational Paraprofessional Training Program

28A.04.180 as 28A.630.400;

E. Temporary Provisions

28A.67.120 as 28A.630.800;

28A.120.800 as 28A.630.810;

**PART VII
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54. OFFENSES RELATING TO SCHOOLS AND SCHOOL PERSONNEL—PENALTIES

28A.87.010 as 28A.635.010;
28A.87.055 as 28A.635.020;
28A.87.060 as 28A.635.030;
28A.87.070 as 28A.635.040;
28A.87.090 as 28A.635.050;
28A.87.120 as 28A.635.060;
28A.87.130 as 28A.635.070;
28A.87.135 as 28A.635.080;
28A.87.230 as 28A.635.090;
28A.87.231 as 28A.635.100;
28A.87.232 as 28A.635.110;
28A.87.233 as 28A.635.120;

55. SEXUAL EQUALITY MANDATED FOR PUBLIC SCHOOLS

28A.85.010 as 28A.640.010;
28A.85.020 as 28A.640.020;
28A.85.030 as 28A.640.030;
28A.85.040 as 28A.640.040;
28A.85.050 as 28A.640.050;
28A.85.900 as 28A.640.900;

56. APPEALS FROM BOARD ACTION OR NONACTION

28A.88.010 as 28A.645.010;
28A.88.013 as 28A.645.020;
28A.88.015 as 28A.645.030;
28A.88.090 as 28A.645.040;

57. AGREEMENT ON QUALIFICATIONS OF PERSONNEL

28A.93.010 as 28A.690.010;
28A.93.020 as 28A.690.020;
28A.93.030 as 28A.690.030;

58. COMPACT FOR EDUCATION

28A.92.010 as 28A.695.010;
28A.92.020 as 28A.695.020;
28A.92.030 as 28A.695.030;
28A.92.040 as 28A.695.040;
28A.92.050 as 28A.695.050;
28A.92.060 as 28A.695.060;
28A.92.070 as 28A.695.070; and
28A.92.080 as 28A.695.080.

PART I
THE EDUCATION PROGRAMS

1. General Provisions

A. Definitions

Sec. 101. Section 28A.01.020, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 158, Laws of 1982 and RCW 28A.01-.020 are each amended to read as follows:

The school year shall begin on the first day of September and end with the last day of August: PROVIDED, That any school district may elect to commence the minimum annual school term as required under RCW ((~~28A.58.754~~)) 28A.150.220 in the month of August of any calendar year and in such case the operation of a school district for such period in August shall be credited by the superintendent of public instruction to the succeeding school year for the purpose of the allocation and distribution of state funds for the support of such school district.

Sec. 102. Section 1, chapter 105, Laws of 1973 1st ex. sess. as last amended by section 17, chapter 359, Laws of 1977 ex. sess. and RCW 28A.01.130 are each amended to read as follows:

The term "certificated employee" as used in RCW ((~~28A.02.201; 28A.41.140, 28A.58.450 through 28A.58.515, 28A.58.445, 28A.67.065; 28A.67.070, 28A.67.074 and 28A.01.130~~)) 28A.195.010, 28A.150.060, 28A.150.260, 28A.405.100, 28A.405.210, 28A.405.240, 28A.405.250, 28A.405.300 through 28A.405.380, and chapter 41.59 RCW, ((~~each as now or hereafter amended;~~)) shall include those persons who hold certificates as authorized by rule or regulation of the state board of education or the superintendent of public instruction.

Sec. 103. Section 203, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.41.110 are each amended to read as follows:

(1) For the purposes of this section and RCW ((~~28A.41.112 and 28A.58.095~~)) 28A.150.410 and 28A.400.200, "basic education certificated instructional staff" shall mean all full time equivalent certificated instructional staff in the following programs as defined for state-wide school district accounting purposes: Basic education, secondary vocational education, general instructional support, and general supportive services.

(2) In the 1988-89 school year and thereafter, each school district shall maintain a ratio of at least forty-six basic education certificated instructional staff to one thousand annual average full time equivalent students.

B. The Basic Education Act

Sec. 104. Section 1, chapter 359, Laws of 1977 ex. sess. and RCW 28A.58.750 are each amended to read as follows:

This 1977 amendatory act shall be known and may be cited as "The Washington Basic Education Act of 1977(^(A))." The program evolving from the Basic Education Act shall include (1) the goal of the school system as defined in RCW (~~(28A.58.752)~~) 28A.150.210, (2) those program requirements enumerated in RCW (~~(28A.58.754)~~) 28A.150.220, and (3) the determination and distribution of state resources as defined in RCW (~~(28A.41.130 and 28A.41.140)~~) 28A.150.250 and 28A.150.260.

The requirements of the Basic Education Act are deemed by the legislature to comply with the requirements of Article IX, section 1 of the state Constitution, which states that "It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex(^(A))." and are adopted pursuant to Article IX, section 2 of the state Constitution, which states that "The legislature shall provide for a general and uniform system of public schools(^(A))."

Sec. 105. Section 3, chapter 359, Laws of 1977 ex. sess. as last amended by section 1, chapter 158, Laws of 1982 and RCW 28A.58.754 are each amended to read as follows:

(1) For the purposes of this section and RCW (~~(28A.41.130 and 28A.41.140, each as now or hereafter amended)~~) 28A.150.250 and 28A.150.260:

(a) The term "total program hour offering" shall mean those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.

(b) "Instruction in work skills" shall include instruction in one or more of the following areas: Industrial arts, home and family life education, business and office education, distributive education, agricultural education, health occupations education, vocational education, trade and industrial education, technical education and career education.

(2) Satisfaction of the basic education goal identified in RCW (~~(28A.58.752)~~) 28A.150.210 shall be considered to be implemented by the following program requirements:

(a) Each school district shall make available to students in kindergarten at least a total program offering of four hundred fifty hours. The program shall include reading, arithmetic, language skills and such other subjects and such activities as the school district shall determine to be appropriate for the education of the school district's students enrolled in such program;

(b) Each school district shall make available to students in grades one through three, at least a total program hour offering of two thousand seven hundred hours. A minimum of ninety-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(c) Each school district shall make available to students in grades four through six at least a total program hour offering of two thousand nine hundred seventy hours. A minimum of ninety percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. The remaining ten percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(d) Each school district shall make available to students in grades seven through eight, at least a total program hour offering of one thousand nine hundred eighty hours. A minimum of eighty-five percent of the total program hour offerings shall be in the basic skills areas of reading/language arts (which may include foreign languages), mathematics, social studies, science, music, art, health and physical education. A minimum of ten percent of the total program hour offerings shall be in the area of work skills. The remaining five percent of the total program hour offerings may include such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades;

(e) Each school district shall make available to students in grades nine through twelve at least a total program hour offering of four thousand three hundred twenty hours. A minimum of sixty percent of the total program hour offerings shall be in the basic skills areas of language arts, foreign language, mathematics, social studies, science, music, art, health and physical education. A minimum of twenty percent of the total program hour offerings shall be in the area of work skills. The remaining twenty percent of the total program hour offerings may include traffic safety or such subjects and activities as the school district shall determine to be appropriate for the education of the school district's students in such grades, with not less than one-half thereof in basic skills and/or work skills: PROVIDED, That each school district shall have the option of including grade nine within the program hour offering requirements of grades seven and eight so long as such requirements for grades seven through nine are increased to two thousand nine hundred seventy hours and such requirements for grades ten through twelve are decreased to three thousand two hundred forty hours.

(3) In order to provide flexibility to the local school districts in the setting of their curricula, and in order to maintain the intent of this legislation, which is to stress the instruction of basic skills and work skills, any local school district may establish minimum course mix percentages that deviate by up to five percentage points above or below those minimums required by subsection (2) of this section, so long as the total program hour requirement is still met.

(4) Nothing contained in subsection (2) of this section shall be construed to require individual students to attend school for any particular number of hours per day or to take any particular courses.

(5) Each school district's kindergarten through twelfth grade basic educational program shall be accessible to all students who are five years of age, as provided by RCW (~~(28A.58.190)~~) 28A.225.160, and less than twenty-one years of age and shall consist of a minimum of one hundred eighty school days per school year in such grades as are conducted by a school district, and one hundred eighty half-days of instruction, or equivalent, in kindergarten: PROVIDED, That effective May 1, 1979, a school district may schedule the last five school days of the one hundred and eighty day school year for noninstructional purposes in the case of students who are graduating from high school, including, but not limited to, the observance of graduation and early release from school upon the request of a student, and all such students may be claimed as a full time equivalent student to the extent they could otherwise have been so claimed for the purposes of RCW (~~(28A.41.130 and 28A.41.140, each as now or hereafter amended)~~) 28A.150.250 and 28A.150.260.

(6) The state board of education shall adopt rules to implement and ensure compliance with the program requirements imposed by this section, RCW (~~(28A.41.130 and 28A.41.140, each as now or hereafter amended)~~) 28A.150.250 and 28A.150.260, and such related supplemental program approval requirements as the state board may establish: PROVIDED, That each school district board of directors shall establish the basis and means for determining and monitoring the district's compliance with the basic skills and work skills percentage and course requirements of this section. The certification of the board of directors and the superintendent of a school district that the district is in compliance with such basic skills and work skills requirements may be accepted by the superintendent of public instruction and the state board of education.

(7) Handicapped education programs, vocational-technical institute programs, state institution and state residential school programs, all of which programs are conducted for the common school age, kindergarten through secondary school program students encompassed by this section, shall be exempt from the basic skills and work skills percentage and course requirements of this section in order that the unique needs, abilities or limitations of such students may be met.

(8) Any school district may petition the state board of education for a reduction in the total program hour offering requirements for one or more of the grade level groupings specified in this section. The state board of education shall grant all such petitions that are accompanied by an assurance that the minimum total program hour offering requirements in one or more other grade level groupings will be exceeded concurrently by no less than the number of hours of the reduction.

Sec. 106. Section 18, chapter 359, Laws of 1977 ex. sess. as amended by section 7, chapter 250, Laws of 1979 ex. sess. and RCW 28A.58.758 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, acting through its respective administrative staff, 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.58.754)) 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.67.065~~)) 28A.405.100;

(b) A summary of program objectives pursuant to RCW ((~~28A.58-090~~)) 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-58-754~~)) 28A.150.220.

Sec. 107. Section 2, chapter 46, Laws of 1973 as last amended by section 201, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.41.130 are each amended to read as follows:

From those funds made available by the legislature for the current use of the common schools, the superintendent of public instruction shall distribute annually as provided in RCW ((~~28A.48.010~~)) 28A.510.250 to each school district of the state operating a program approved by the state board of education an amount which, when combined with an appropriate portion of such locally available revenues, other than receipts from federal forest revenues distributed to school districts pursuant to RCW ((~~28A.02.300 and 28A.02.310~~)) 28A.520.010 and 28A.520.020, as the superintendent of public instruction may deem appropriate for consideration in computing state equalization support, excluding excess property tax levies, will constitute a basic education allocation in dollars for each annual average full time

equivalent student enrolled, based upon one full school year of one hundred eighty days, except that for kindergartens one full school year shall be one hundred eighty half days of instruction, or the equivalent as provided in RCW (~~(28A.58.754, as now or hereafter amended)~~) 28A.150.220.

Basic education shall be considered to be fully funded by those amounts of dollars appropriated by the legislature pursuant to RCW (~~(28A.41.130 and 28A.41.140)~~) 28A.150.250 and 28A.150.260 to fund those program requirements identified in RCW (~~(28A.58.754)~~) 28A.150.220 in accordance with the formula and ratios provided in RCW (~~(28A.41.140)~~) 28A.150.260 and those amounts of dollars appropriated by the legislature to fund the salary requirements of RCW (~~(28A.41.110 and 28A.41.112)~~) 28A.150.100 and 28A.150.410.

Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district: PROVIDED, That for the purposes of this section, "classroom teacher" shall be defined as an instructional employee possessing at least a provisional certificate, but not necessarily employed as a certificated employee, whose primary duty is the daily educational instruction of students: PROVIDED FURTHER, That the state board of education shall adopt rules and regulations to insure compliance with the student/teacher ratio provisions of this section, and such rules and regulations shall allow for exemptions for those special programs and/or school districts which may be deemed unable to practicably meet the student/teacher ratio requirements of this section by virtue of a small number of students.

If a school district's basic education program fails to meet the basic education requirements enumerated in RCW (~~(28A.41.130, 28A.41.140 and 28A.58.754)~~) 28A.150.250, 28A.150.260, and 28A.150.220, the state board of education shall require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured: PROVIDED, That the state board of education may waive this requirement in the event of substantial lack of classroom space.

Sec. 108. Section 14, chapter 244, Laws of 1969 ex. sess. as last amended by section 202, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.41.140 are each amended to read as follows:

The basic education allocation for each annual average full time equivalent student shall be determined in accordance with the following procedures:

(1) The governor shall and the superintendent of public instruction may recommend to the legislature a formula based on a ratio of students to

staff for the distribution of a basic education allocation for each annual average full time equivalent student enrolled in a common school. The distribution formula shall have the primary objective of equalizing educational opportunities and shall provide appropriate recognition of the following costs among the various districts within the state:

- (a) Certificated instructional staff and their related costs;
- (b) Certificated administrative staff and their related costs;
- (c) Classified staff and their related costs;
- (d) Nonsalary costs;
- (e) Extraordinary costs of remote and necessary schools and small high schools, including costs of additional certificated and classified staff; and
- (f) The attendance of students pursuant to RCW (~~(28A.58.075 and 28A.58.245, each as now or hereafter amended;)~~) 28A.335.160 and 28A.225.250 who do not reside within the servicing school district.

(2)(a) This formula for distribution of basic education funds shall be reviewed biennially by the superintendent and governor. The recommended formula shall be subject to approval, amendment or rejection by the legislature. The formula shall be for allocation purposes only. While the legislature intends that the allocations for additional instructional staff be used to increase the ratio of such staff to students, nothing in this section shall require districts to reduce the number of administrative staff below existing levels.

(b) The formula adopted by the legislature for the 1987-88 school year shall reflect the following ratios at a minimum: (i) Forty-eight certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(c) Commencing with the 1988-89 school year, the formula adopted by the legislature shall reflect the following ratios at a minimum: (i) Forty-nine certificated instructional staff to one thousand annual average full time equivalent students enrolled in grades kindergarten through three; (ii) forty-six certificated instructional staff to one thousand annual average full time equivalent students in grades four through twelve; (iii) four certificated administrative staff to one thousand annual average full time equivalent students in grades kindergarten through twelve; and (iv) sixteen and sixty-seven one-hundredths classified personnel to one thousand annual average full time equivalent students enrolled in grades kindergarten through twelve.

(d) In the event the legislature rejects the distribution formula recommended by the governor, without adopting a new distribution formula, the distribution formula for the previous school year shall remain in effect: PROVIDED, That the distribution formula developed pursuant to this section shall be for state apportionment and equalization purposes only and shall not be construed as mandating specific operational functions of local school districts other than those program requirements identified in RCW ((~~28A.58.754 and 28A.41.110~~) 28A.150.220 and 28A.150.100). The enrollment of any district shall be the annual average number of full time equivalent students and part time students as provided in RCW ((~~28A.41.145, as now or hereafter amended~~) 28A.150.350, enrolled on the first school day of each month and shall exclude full time equivalent handicapped students recognized for the purposes of allocation of state funds for programs under ((~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100). The definition of full time equivalent student shall be determined by rules and regulations of the superintendent of public instruction: PROVIDED, That the definition shall be included as part of the superintendent's biennial budget request: PROVIDED, FURTHER, That any revision of the present definition shall not take effect until approved by the house appropriations committee and the senate ways and means committee: PROVIDED, FURTHER, That the office of financial management shall make a monthly review of the superintendent's reported full time equivalent students in the common schools in conjunction with RCW 43.62.050.

(3) (a) Certificated instructional staff shall include those persons employed by a school district who are nonsupervisory employees within the meaning of RCW 41.59.020(8): PROVIDED, That in exceptional cases, people of unusual competence but without certification may teach students so long as a certificated person exercises general supervision: PROVIDED, FURTHER, That the hiring of such noncertificated people shall not occur during a labor dispute and such noncertificated people shall not be hired to replace certificated employees during a labor dispute.

(b) Certificated administrative staff shall include all those persons who are chief executive officers, chief administrative officers, confidential employees, supervisors, principals, or assistant principals within the meaning of RCW 41.59.020(4).

(4) Each annual average full time equivalent certificated classroom teacher's direct classroom contact hours shall average at least twenty-five hours per week. Direct classroom contact hours shall be exclusive of time required to be spent for preparation, conferences, or any other nonclassroom instruction duties. Up to two hundred minutes per week may be deducted from the twenty-five contact hour requirement, at the discretion of the school district board of directors, to accommodate authorized teacher/parent-guardian conferences, recess, passing time between classes, and informal instructional activity. Implementing rules to be adopted by the

state board of education pursuant to RCW ((~~28A.58.754(6)~~)) 28A.150.220(6) shall provide that compliance with the direct contact hour requirement shall be based upon teachers' normally assigned weekly instructional schedules, as assigned by the district administration. Additional record-keeping by classroom teachers as a means of accounting for contact hours shall not be required. However, upon request from the board of directors of any school district, the provisions relating to direct classroom contact hours for individual teachers in that district may be waived by the state board of education if the waiver is necessary to implement a locally approved plan for educational excellence and the waiver is limited to those individual teachers approved in the local plan for educational excellence. The state board of education shall develop criteria to evaluate the need for the waiver. Granting of the waiver shall depend upon verification that: (a) The students' classroom instructional time will not be reduced; and (b) the teacher's expertise is critical to the success of the local plan for excellence.

Sec. 109. Section 28A.41.160, chapter 223, Laws of 1969 ex. sess. as last amended by section 9, chapter 265, Laws of 1981 and RCW 28A.41.160 are each amended to read as follows:

Costs of acquisition of approved transportation equipment purchased prior to September 1, 1982, shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be placed in the transportation vehicle fund for the current or future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized in RCW ((~~28A.58.428~~)) 28A.160.130.

Sec. 110. Section 28A.41.160, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 343, Laws of 1981 and RCW 28A.41.160 are each amended to read as follows:

Reimbursement for transportation costs shall be in addition to the basic education allocation. Transportation costs shall be reimbursed as follows:

(1) School districts shall be reimbursed up to one hundred percent of the operational costs for established bus routes for the transportation of students to and from common schools as recommended by the educational service district superintendent or his or her designee, and as approved by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That commencing on September 1, 1982, no school district shall be reimbursed under this section for any portion of the cost to transport any student, except handicapped children as defined under RCW ((~~28A.13.010, as now or hereafter~~))

amended)) 28A.155.020, to or from any school other than one which is geographically located nearest or next-nearest to the student's place of residence within the district offering the appropriate grade level, course of study, or special academic program as designated by the local school board: PROVIDED FURTHER, That notwithstanding the provisions of section 94, chapter 340, Laws of 1981, any moneys not reimbursed to a school district for transportation costs pursuant to this subsection shall be allocated to the school district for block grants under section 100, chapter 340, Laws of 1981: PROVIDED FURTHER, That the superintendent of public instruction, when so requested by the appropriate educational service district superintendent or his or her designee, may waive the requirements of this 1981 provision, if natural geographic boundaries or safety factors would make this provision unworkable and/or more costly to the district or to the state; and

(2) Costs of acquisition of approved transportation equipment shall be reimbursed up to one hundred percent of the cost to be reimbursed over the anticipated life of the vehicle, as determined by the state superintendent: PROVIDED, That commencing with the 1980-81 school year, reimbursement shall be at one hundred percent or as close thereto as reasonably possible: PROVIDED FURTHER, That reimbursements for the acquisition of approved transportation equipment received by school districts shall be held within the general fund exclusively for the future purchase of approved transportation equipment and for major transportation equipment repairs consistent with rules and regulations authorized and promulgated under RCW ((~~28A.41.170~~)) 28A.150.290 and chapter ((~~28A.65~~)) 28A.505 RCW.

Sec. 111. Section 28A.41.170, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 285, Laws of 1981 and RCW 28A.41.170 are each amended to read as follows:

(1) The superintendent of public instruction shall have the power and duty to make such rules and regulations as are necessary for the proper administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 not inconsistent with the provisions thereof, and in addition to require such reports as may be necessary to carry out his or her duties under this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

(2) The superintendent of public instruction shall have the authority to make rules and regulations which establish the terms and conditions for allowing school districts to receive state basic education moneys as provided in RCW ((~~28A.41.130~~)) 28A.150.250 when said districts are unable to fulfill for one or more schools as officially scheduled the requirement of a full school year of one hundred eighty days or the total program hour offering, teacher contact hour, or course mix and percentage requirements imposed by RCW ((~~28A.58.754 and 28A.41.140~~)) 28A.150.220 and 28A.150.260 due to one or more of the following conditions:

(a) An unforeseen natural event, including, but not necessarily limited to, a fire, flood, explosion, storm, earthquake, epidemic, or volcanic eruption that has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable; and

(b) An unforeseen mechanical failure or an unforeseen action or inaction by one or more persons, including negligence and threats, that (i) is beyond the control of both a school district board of directors and its employees and (ii) has the direct or indirect effect of rendering one or more school district facilities unsafe, unhealthy, inaccessible, or inoperable. Such actions, inactions or mechanical failures may include, but are not necessarily limited to, arson, vandalism, riots, insurrections, bomb threats, bombings, delays in the scheduled completion of construction projects, and the discontinuance or disruption of utilities such as heating, lighting and water: PROVIDED, That an unforeseen action or inaction shall not include any labor dispute between a school district board of directors and any employee of the school district.

A condition is foreseeable for the purposes of this subsection to the extent a reasonably prudent person would have anticipated prior to August first of the preceding school year that the condition probably would occur during the ensuing school year because of the occurrence of an event or a circumstance which existed during such preceding school year or a prior school year. A board of directors of a school district is deemed for the purposes of this subsection to have knowledge of events and circumstances which are a matter of common knowledge within the school district and of those events and circumstances which can be discovered upon prudent inquiry or inspection.

(3) The superintendent of public instruction shall make every effort to reduce the amount of paperwork required in administration of this chapter and RCW 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010; to simplify the application, monitoring and evaluation processes used; to eliminate all duplicative requests for information from local school districts; and to make every effort to integrate and standardize information requests for other state education acts and federal aid to education acts administered by the superintendent of public instruction so as to reduce paperwork requirements and duplicative information requests.

C. Appropriations and Adjustments

Sec. 112. Section 4, chapter 217, Laws of 1969 ex. sess. as last amended by section 5, chapter 441, Laws of 1985 and RCW 28A.41.145 are each amended to read as follows:

(1) For purposes of this section, the following definitions shall apply:

(a) "Private school student" shall mean any student enrolled full time in a private school;

(b) "School" shall mean any primary, secondary or vocational school;

(c) "School funding authority" shall mean any nonfederal governmental authority which provides moneys to common schools;

(d) "Part time student" shall mean and include: Any student enrolled in a course of instruction in a private school and taking courses at and/or receiving ancillary services offered by any public school not available in such private school; or any student who is not enrolled in a private school and is receiving home-based instruction under RCW (~~28A.27.010~~) 28A.225.010 which instruction includes taking courses at or receiving ancillary services from the local school district or both; or any student involved in any work training program and taking courses in any public school, which work training program is approved by the school board of the district in which such school is located.

(2) The board of directors of any school district is authorized and, in the same manner as for other public school students, shall permit the enrollment of and provide ancillary services for part time students: PROVIDED, That this section shall only apply to part time students who would be otherwise eligible for full time enrollment in the school district.

(3) The superintendent of public instruction shall recognize the costs to each school district occasioned by enrollment of and/or ancillary services provided for part time students authorized by subsection (2) of this section and shall include such costs in the distribution of funds to school districts pursuant to RCW (~~28A.41.140~~) 28A.150.260. Each school district shall be reimbursed for the costs or a portion thereof, occasioned by attendance of and/or ancillary services provided for part time students on a part time basis, by the superintendent of public instruction, according to law.

(4) Each school funding authority shall recognize the costs occasioned to each school district by enrollment of and ancillary services provided for part time students authorized by subsection (2) of this section, and shall include said costs in funding the activities of said school districts.

(5) The superintendent of public instruction is authorized to adopt rules and regulations to carry out the purposes of RCW (~~28A.41.140 and 28A.41.145~~) 28A.150.260 and 28A.150.350.

Sec. 113. Section 28A.41.150, chapter 223, Laws of 1969 ex. sess. and RCW 28A.41.150 are each amended to read as follows:

In the event of an unforeseen emergency, in the nature of either an unavoidable cost to a district or unexpected variation in anticipated revenues to a district, the state superintendent is authorized, for not to exceed two years, to make such an adjustment in the allocation of funds as is consistent with the intent of (~~this chapter~~) RCW 28A.150.100 through 28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010 in providing an equal educational opportunity for the children of such district or districts.

Sec. 114. Section 7, chapter 359, Laws of 1977 ex. sess. as amended by section 1, chapter 24, Laws of 1982 1st ex. sess. and RCW 28A.41.162 are each amended to read as follows:

In addition to those state funds provided to school districts for basic education, the legislature shall appropriate funds for pupil transportation, in accordance with ~~((this chapter))~~ RCW 28A.150.100 through 28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010, and for programs for handicapped students, in accordance with ~~((chapter 28A.13))~~ RCW 28A.155.010 through 28A.155.100. The legislature may appropriate funds to be distributed to school districts for population factors such as urban costs, enrollment fluctuations and for special programs, including but not limited to, vocational-technical institutes, compensatory programs, bilingual education, urban, rural, racial and disadvantaged programs, programs for gifted students, and other special programs.

Sec. 115. Section 28A.41.050, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 6, Laws of 1980 and RCW 28A.41.050 are each amended to read as follows:

The state legislature shall, at each regular session in an odd-numbered year, appropriate from the state general fund for the current use of the common schools such amounts as needed for state support to the common schools during the ensuing biennium as ~~((in this chapter))~~ provided in RCW 28A.150.100 through 28A.150.430, 28A.160.150 through 28A.160.220, 28A.300.170, and 28A.500.010.

Sec. 116. Section 11, chapter 66, Laws of 1971 ex. sess. as last amended by section 2, chapter 400, Laws of 1989 and RCW 28A.41.053 are each amended to read as follows:

The superintendent of public instruction shall submit to each regular session of the legislature during an odd-numbered year a programmed budget request for handicapped programs. Funding for programs operated by local school districts shall be on an excess cost basis from appropriations provided by the legislature for handicapped programs and shall take account of state funds accruing through RCW ~~((28A.41.130, 28A.41.140))~~ 28A.150.250, 28A.150.260, and other state and local funds, excluding special excess levies. Funding for local district programs may include payments from state and federal funds for medical assistance provided under RCW 74.09.500 through 74.09.910. However, the superintendent of public instruction shall reimburse the department of social and health services from state appropriations for handicapped education programs for the state-funded portion of any medical assistance payment made by the department for services provided under an individualized education program established pursuant to ~~((chapter 28A.13))~~ RCW 28A.155.010 through 28A.155.100. The amount of such interagency reimbursement shall be deducted by the superintendent of public instruction in determining additional allocations to districts for handicapped education programs under this section.

Sec. 117. Section 28A.41.055, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 26, Laws of 1972 ex. sess. and RCW 28A.41.055 are each amended to read as follows:

State and county funds which may become due and apportionable to school districts shall be apportioned in such a manner that any apportionment factors used shall utilize data and statistics derived in the school year that such funds are paid: PROVIDED, That the superintendent of public instruction may make necessary administrative provision for the use of estimates, and corresponding adjustments to the extent necessary: PROVIDED FURTHER, That as to those revenues used in determining the amount of state funds to be apportioned to school districts pursuant to RCW (~~28A.41.130~~) 28A.150.250, any apportionment factors shall utilize data and statistics derived in an annual period established pursuant to rules and regulations promulgated by the superintendent of public instruction in cooperation with the department of revenue.

Sec. 118. Section 204, chapter 2, Laws of 1987 1st ex. sess. as last amended by section 1, chapter 16, Laws of 1989 1st ex. sess. and RCW 28A.41.112 are each amended to read as follows:

(1) The legislature shall establish for each school year in the appropriations act a state-wide salary allocation schedule, for allocation purposes only, to be used to distribute funds for basic education certificated instructional staff salaries under RCW (~~28A.41.140~~) 28A.150.260.

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

(3) Beginning January 1, 1992, no more than ninety college quarter-hour credits received by any employee after the baccalaureate degree may be used to determine compensation allocations under the state salary allocation schedule and LEAP documents referenced in the biennial appropriations act, or any replacement schedules and documents, unless:

(a) The employee has a masters degree; or

(b) The credits were used in generating state salary allocations before January 1, 1992.

Sec. 119. Section 2, chapter 146, Laws of 1972 ex. sess. and RCW 28A.41.175 are each amended to read as follows:

Each school district shall estimate and report to the superintendent of public instruction by June 15, of each year the amount of moneys the district will fail to receive during their present fiscal year due to the nonpayment of local property taxes from the regular levy within the school district less an estimated amount for delinquent payments from prior year regular levies; such net estimate shall be based upon the amount of moneys the district failed to receive because of nonpayment of regular levy property taxes during the first six months of the then fiscal year and during the last six months of the preceding fiscal year. The superintendent of public instruction shall present in his budget submittal to the governor an amount sufficient to reimburse the school districts for moneys lost due to such nonpayment of taxes as described in this section, which moneys shall be deemed amounts needed for state support to the common schools under RCW (~~28A.41-050~~) 28A.150.380.

2. Special Education

Sec. 120. Section 1, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.005 are each amended to read as follows:

It is the purpose of (~~this chapter,~~) RCW (~~28A.24.100 and 28A.41-053~~) 28A.155.010 through 28A.155.100, 28A.160.030, and 28A.150.390 to ensure that all handicapped children as defined in RCW (~~28A.13.010~~) 28A.155.020 shall have the opportunity for an appropriate education at public expense as guaranteed to them by the Constitution of this state.

Sec. 121. Section 28A.13.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 4, chapter 341, Laws of 1985 and RCW 28A.13.010 are each amended to read as follows:

There is established in the office of the superintendent of public instruction an administrative section or unit for the education of children with handicapping conditions.

Handicapped children are those children in school or out of school who are temporarily or permanently retarded in normal educational processes by reason of physical or mental handicap, or by reason of emotional maladjustment, or by reason of other handicap, and those children who have specific learning and language disabilities resulting from perceptual-motor handicaps, including problems in visual and auditory perception and integration.

The superintendent of public instruction shall require each school district in the state to insure an appropriate educational opportunity for all handicapped children between the ages of three and twenty-one, but when the twenty-first birthday occurs during the school year, the educational program may be continued until the end of that school year. The superintendent of public instruction, by rule and regulation, shall establish for the purpose of excess cost funding, as provided in (~~this chapter, RCW 28A-24.100 and 28A.41-053~~) RCW 28A.150.390, 28A.160.030, and

28A.155.010 through 28A.155.100, functional definitions of the various types of handicapping conditions and eligibility criteria for handicapped programs. For the purposes of ~~((this chapter))~~ RCW 28A.155.010 through 28A.155.100, an appropriate education is defined as an education directed to the unique needs, abilities, and limitations of the handicapped children. School districts are strongly encouraged to provide parental training in the care and education of the children and to involve parents in the classroom.

Nothing in this section shall prohibit the establishment or continuation of existing cooperative programs between school districts or contracts with other agencies approved by the superintendent of public instruction, which can meet the obligations of school districts to provide education for handicapped children, or prohibit the continuation of needed related services to school districts by the department of social and health services.

This section shall not be construed as in any way limiting the powers of local school districts set forth in RCW ~~((28A.13.050))~~ 28A.155.070.

No child shall be removed from the jurisdiction of juvenile court for training or education under ~~((this chapter))~~ RCW 28A.155.010 through 28A.155.100 without the approval of the superior court of the county.

Sec. 122. Section 1, chapter 10, Laws of 1972 ex. sess. as amended by section 52, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.13.020 are each amended to read as follows:

The superintendent of public instruction shall appoint an administrative officer of the division. The administrative officer, under the direction of the superintendent of public instruction, shall coordinate and supervise the program of special education for all handicapped children in the school districts of the state. He or she shall cooperate with the educational service district superintendents and local school district superintendents and with all other interested school officials in ensuring that all school districts provide an appropriate educational opportunity for all handicapped children and shall cooperate with the state secretary of social and health services and with county and regional officers on cases where medical examination or other attention is needed.

Sec. 123. Section 28A.13.030, chapter 223, Laws of 1969 ex. sess. as amended by section 4, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.030 are each amended to read as follows:

The board of directors of each school district, for the purpose of compliance with the provisions of ~~((this chapter, RCW 28A.24.100 and 28A.41.053))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100, shall cooperate with the superintendent of public instruction and with the administrative officer and shall provide an appropriate educational opportunity and give other appropriate aid and special attention to handicapped children in regular or special school facilities within the district or shall contract for such services with other agencies as provided in RCW ~~((28A.13.045))~~ 28A.155.060 or shall participate in an interdistrict

arrangement in accordance with RCW (~~((28A.58.075 and 28A.58.240))~~
28A.335.160 and 28A.225.220 and/or (~~((28A.58.245 and 28A.58.250))~~
28A.225.250 and 28A.225.260.

In carrying out their responsibilities under this chapter, school districts severally or jointly with the approval of the superintendent of public instruction are authorized to establish, operate, support and/or contract for residential schools and/or homes approved by the department of social and health services for aid and special attention to handicapped children.

The cost of board and room in facilities approved by the department of social and health services shall be provided by the department of social and health services for those handicapped students eligible for such aid under programs of the department. The cost of approved board and room shall be provided for those handicapped students not eligible under programs of the department of social and health services but deemed in need of the same by the superintendent of public instruction: PROVIDED, That no school district shall be financially responsible for special aid programs for students who are attending residential schools operated by the department of social and health services: PROVIDED FURTHER, That the provisions of (~~(this chapter, RCW 28A.24.100 and 28A.41.053))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 shall not preclude the extension by the superintendent of public instruction of special education opportunities to handicapped children in residential schools operated by the department of social and health services.

Sec. 124. Section 28A.13.040, chapter 223, Laws of 1969 ex. sess. as amended by section 5, chapter 66, Laws of 1971 ex. sess. and RCW 28A-.13.040 are each amended to read as follows:

Any child who is not able to attend school and who is eligible for special excess cost aid programs authorized under (~~(this chapter))~~ RCW 28A.155.010 through 28A.155.100 shall be given such aid at home or at such other place as determined by the board of directors of the school district in which such child resides. Any school district within which such a child resides shall thereupon be granted regular apportionment of state and county school funds and, in addition, allocations from state excess funds made available for such special services for such period of time as such special aid program is given: PROVIDED, That should such child or any other handicapped child attend and participate in a special aid program operated by another school district in accordance with the provisions of RCW (~~((28A.58.230, 28A.58.240))~~ 28A.225.210, 28A.225.220, and/or ((28A.58-245)) 28A.225.250, such regular apportionment shall be granted to the receiving school district, and such receiving school district shall be reimbursed by the district in which such student resides in accordance with rules and regulations promulgated by the superintendent of public instruction for the entire approved excess cost not reimbursed from such regular apportionment.

Sec. 125. Section 6, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.045 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW ((~~28A.13.010 through 28A.13.040~~)) 28A.155.020 through 28A.155.050, the board of directors of every school district shall be authorized to contract with agencies approved by the state board of education for operating handicapped programs. Approval standards for such agencies shall conform substantially with those promulgated for approval of special education aid programs in the common schools.

Sec. 126. Section 8, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.060 are each amended to read as follows:

Where a handicapped child as defined in RCW ((~~28A.13.010~~)) 28A.155.020 has been denied the opportunity of an educational program by a local school district superintendent under the provisions of RCW ((~~28A.27.010~~)) 28A.225.010, or for any other reason there shall be an affirmative showing by the school district superintendent in a writing directed to the parents or guardian of such a child within ten days of such decision that

(1) No agency or other school district with whom the district may contract under RCW ((~~28A.13.030~~)) 28A.155.040 can accommodate such child, and

(2) Such child will not benefit from an alternative educational opportunity as permitted under RCW ((~~28A.13.040~~)) 28A.155.050.

There shall be a right of appeal by the parent or guardian of such child to the superintendent of public instruction pursuant to procedures established by ((him)) the superintendent and in accordance with RCW ((~~28A.13.070~~)) 28A.155.090.

Sec. 127. Section 9, chapter 66, Laws of 1971 ex. sess. as amended by section 5, chapter 341, Laws of 1985 and RCW 28A.13.070 are each amended to read as follows:

The superintendent of public instruction shall have the duty and authority, through the administrative section or unit for the education of children with handicapping conditions, to:

(1) Assist school districts in the formation of total school programs to meet the needs of handicapped children((-));

(2) Develop interdistrict cooperation programs for handicapped children as authorized in RCW ((~~28A.58.245~~)) 28A.225.250;

(3) Provide, upon request, to parents or guardians of handicapped children, information as to the handicapped programs offered within the state((-));

(4) Assist, upon request, the parent or guardian of any handicapped child in the placement of any handicapped child who is eligible for but not receiving special educational aid for handicapped children((-));

(5) Approve school district and agency programs as being eligible for special excess cost financial aid to handicapped children((-));

(6) Adjudge, upon appeal by a parent or guardian of a handicapped child who is not receiving an educational program, whether the decision of a local school district superintendent under RCW ~~((28A.13.060))~~ 28A.155.080 to exclude such handicapped child was justified by the available facts and consistent with the provisions of ~~((this chapter, RCW 28A.24.100 and 28A.41.053.))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; If the superintendent of public instruction shall decide otherwise he or she shall apply sanctions as provided in RCW ~~((28A.13.080))~~ 28A.155.100 until such time as the school district assures compliance with the provisions ~~((of this chapter, RCW 28A.24.100 and 28A.41.053.))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100; and

(7) Promulgate such rules and regulations as are necessary to implement the several provisions of ~~((this chapter, RCW 28A.24.100 and 28A.41.053.))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 and to ensure educational opportunities within the common school system for all handicapped children who are not institutionalized.

Sec. 128. Section 12, chapter 66, Laws of 1971 ex. sess. and RCW 28A.13.080 are each amended to read as follows:

The superintendent of public instruction is hereby authorized and directed to establish appropriate sanctions to be applied to any school district of the state failing to comply with the provisions of ~~((this chapter, RCW 28A.24.100 and 28A.41.053.))~~ RCW 28A.150.390, 28A.160.030, and 28A.155.010 through 28A.155.100 to be applied beginning upon the effective date thereof, which sanctions shall include withholding of any portion of state aid to such district until such time as compliance is assured.

Sec. 129. Section 1, chapter 78, Laws of 1975 1st ex. sess. and RCW 28A.03.300 are each amended to read as follows:

The legislature recognizes as its initial duty in carrying out its responsibility to see to the education of the children of this state the importance of screening children within the schools to determine if there be any of such children with learning/language disabilities. It is the intent and purpose of RCW ~~((28A.03.300 through 28A.03.320))~~ 28A.155.110 through 28A.155.130 to identify the number of children with recognizable learning/language disabilities, the type thereof, and to determine educational methods appropriate thereto.

Sec. 130. Section 3, chapter 78, Laws of 1975 1st ex. sess. and RCW 28A.03.320 are each amended to read as follows:

RCW ~~((28A.03.300 through 28A.03.320))~~ 28A.155.110 through 28A.155.130 shall be known and may be cited as the "screening for learning/language disabilities act~~(([#]))."~~

Sec. 131. Section 1, chapter 398, Laws of 1987 and RCW 28A.03.367 are each amended to read as follows:

By July 1, 1989, the superintendent of public instruction shall complete a study and, as may be necessary, adopt rules providing for the appropriate use of curriculum-based assessment procedures as a component of assessment procedures provided by (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100. School districts may use curriculum-based assessment procedures as measures for developing academic early intervention programs and curriculum planning: PROVIDED, That the use of curriculum-based assessment procedures shall not deny a student the right to an assessment to determine eligibility or participation in learning disabilities programs as provided by (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100.

3. Student Transportation

Sec. 132. Section 28A.24.055, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 32, Laws of 1986 and RCW 28A.24.055 are each amended to read as follows:

The operation of each local school district's student transportation program is declared to be the responsibility of the respective board of directors, and each board of directors shall determine such matters as which individual students shall be transported and what routes shall be most efficiently utilized. State moneys allocated to local districts for student transportation shall be spent only for student transportation activities, but need not be spent by the local district in the same manner as calculated and allocated by the state.

A school district is authorized to provide for the transportation of students enrolled in the school or schools of the district both in the case of students who reside within the boundaries of the district and of students who reside outside the boundaries of the district.

When children are transported from one school district to another the board of directors of the respective districts may enter into a written contract providing for a division of the cost of such transportation between the districts.

School districts may use school buses and drivers hired by the district or commercial chartered bus service for the transportation of school children and the school employees necessary for their supervision to and from any school activities within or without the school district during or after school hours and whether or not a required school activity, so long as the school board has officially designated it as a school activity. For any extra-curricular uses, the school board shall charge an amount sufficient to reimburse the district for its cost.

In addition to the right to contract for the use of buses provided in RCW (~~(28A.24.170 and 28A.24.172)~~) 28A.160.080 and 28A.160.090, any

school district may contract to furnish the use of school buses of that district to other users who are engaged in conducting an educational or recreational program supported wholly or in part by tax funds or programs for elderly persons at times when those buses are not needed by that district and under such terms as will fully reimburse such school district for all costs related or incident thereto: PROVIDED, HOWEVER, That no such use of school district buses shall be permitted except where other public or private transportation certificated or licensed by the Washington utilities and transportation commission is not reasonably available to the user: PROVIDED FURTHER, That no user shall be required to accept any charter bus for services which the user believes might place the health or safety of the children or elderly persons in jeopardy.

Whenever any persons are transported by the school district in its own motor vehicles and by its own employees, the board may provide insurance to protect the district against loss, whether by reason of theft, fire or property damage to the motor vehicle or by reason of liability of the district to persons from the operation of such motor vehicle.

The board may provide insurance by contract purchase for payment of hospital and medical expenses for the benefit of persons injured while they are on, getting on, or getting off any vehicles enumerated herein without respect to any fault or liability on the part of the school district or operator. This insurance may be provided without cost to the persons notwithstanding the provisions of RCW (~~(28A.58.420)~~) 28A.400.350.

If the transportation of children or elderly persons is arranged for by contract of the district with some person, the board may require such contractor to procure such insurance as the board deems advisable.

Sec. 133. Section 1, chapter 307, Laws of 1981 and RCW 28A.24.065 are each amended to read as follows:

Every school district board of directors may authorize children attending a private school approved in accordance with RCW (~~(28A.02.201)~~) 28A.195.010 to ride a school bus or other student transportation vehicle to and from school so long as the following conditions are met:

- (1) The board of directors shall not be required to alter those bus routes or stops established for transporting public school students;
- (2) Private school students shall be allowed to ride on a seat-available basis only; and
- (3) The board of directors shall charge an amount sufficient to reimburse the district for the actual per seat cost of providing such transportation.

Sec. 134. Section 2, chapter 78, Laws of 1971 and RCW 28A.24.111 are each amended to read as follows:

The directors of school districts may authorize leases under RCW (~~(28A.24.110 through 28A.24.112)~~) 28A.160.040 through 28A.160.060: PROVIDED, That such leases do not conflict with regular school purposes.

Sec. 135. Section 3, chapter 45, Laws of 1973 and RCW 28A.24.120 are each amended to read as follows:

For purposes of RCW (~~28A.24.055, 28A.24.110 and this section~~) 28A.160.010 and 28A.160.040, "elderly person" shall mean a person who is at least sixty years of age. No school district funds may be used for the operation of such a program.

Sec. 136. Section 1, chapter 24, Laws of 1971 and RCW 28A.24.170 are each amended to read as follows:

It is the intent of the legislature and the purpose of RCW (~~28A.24.055, 28A.24.170 and 28A.24.172~~) 28A.160.010, 28A.160.080, and 28A.160.090 that in the event of major forest fires, floods, or other natural emergencies that boards of directors of school districts, in their discretion, may rent or lease school buses to governmental agencies for the purposes of transporting personnel, supplies and/or evacuees.

Sec. 137. Section 2, chapter 24, Laws of 1971 as last amended by section 21, chapter 266, Laws of 1986 and RCW 28A.24.172 are each amended to read as follows:

Each school district board shall determine its own policy as to whether or not its school buses will be rented or leased for the purposes of RCW (~~28A.24.170~~) 28A.160.080, and if the board decision is to rent or lease, under what conditions, subject to the following:

(1) Such renting or leasing may take place only after the state director of community development or any of his or her agents so authorized has, at the request of an involved governmental agency, declared that an emergency exists in a designated area insofar as the need for additional transport is concerned.

(2) The agency renting or leasing the school buses must agree, in writing, to reimburse the school district for all costs and expenses related to their use and also must provide an indemnity agreement protecting the district against any type of claim or legal action whatsoever, including all legal costs incident thereto.

Sec. 138. Section 1, chapter 91, Laws of 1980 and RCW 28A.24.175 are each amended to read as follows:

In addition to the authority otherwise provided in (~~this chapter~~) RCW 28A.160.010 through 28A.160.120 to school districts for the transportation of persons, whether school children, school personnel, or otherwise, any school district authorized to use school buses and drivers hired by the district for the transportation of school children to and from a school activity, along with such school employees as necessary for their supervision, shall, if such school activity be an interscholastic activity, be authorized to transport members of the general public to such event and utilize the school district's buses, transportation equipment and facilities, and employees therefor: PROVIDED, That provision shall be made for the reimbursement

and payment to the school district by such members of the general public of not less than the district's actual costs and the reasonable value of the use of the district's buses and facilities provided in connection with such transportation: PROVIDED FURTHER, That wherever private transportation certified or licensed by the utilities and transportation commission or public transportation is reasonably available as determined by rule and regulation of the state board of education, this section shall not apply.

Sec. 139. Section 7, chapter 265, Laws of 1981 and RCW 28A.58.428 are each amended to read as follows:

(1) There is created a fund on deposit with each county treasurer for each school district of the county, which shall be known as the transportation vehicle fund. Money to be deposited into the transportation vehicle fund shall include, but is not limited to, the following:

(a) The balance of accounts held in the general fund of each school district for the purchase of approved transportation equipment and for major transportation equipment repairs under RCW (~~(28A.41.160, as now or hereafter amended)~~) 28A.150.280. The amount transferred shall be the balance of the account as of September 1, 1982;

(b) Reimbursement payments provided for in RCW (~~(28A.41.540)~~) 28A.160.200 except those provided under RCW (~~(28A.41.540(4))~~) 28A.160.200(4) that are necessary for contracted payments to private carriers;

(c) Earnings from transportation vehicle fund investments as authorized in RCW (~~(28A.58.430, as now or hereafter amended)~~) 28A.320.300; and

(d) The district's share of the proceeds from the sale of transportation vehicles, as determined by the superintendent of public instruction.

(2) Funds in the transportation vehicle fund may be used for the following purposes:

(a) Purchase of pupil transportation vehicles pursuant to RCW (~~(28A.41.540 and RCW 28A.41.160, as now or hereafter amended)~~) 28A.160.200 and 28A.150.280;

(b) Payment of conditional sales contracts for the purchase of pupil transportation vehicles as authorized in RCW (~~(28A.58.550, as now or hereafter amended)~~) 28A.335.200;

(c) Major repairs to pupil transportation vehicles.

The superintendent of public instruction shall promulgate rules which shall establish the standards, conditions, and procedures governing the establishment and use of the transportation vehicle fund. The rules shall not permit the transfer of funds from the transportation vehicle fund to any other fund of the district.

Sec. 140. Section 2, chapter 141, Laws of 1987 and RCW 28A.58.133 are each amended to read as follows:

As a condition of entering into a pupil transportation services contract with a private nongovernmental entity, each school district shall engage in an open competitive process at least once every five years. This requirement shall not be construed to prohibit a district from entering into a pupil transportation services contract of less than five years in duration with a district option to renew, extend, or terminate the contract, if the district engages in an open competitive process at least once every five years after July 26, 1987. As used in this section:

(1) "Open competitive process" means either one of the following, at the choice of the school district:

(a) The solicitation of bids or quotations and the award of contracts under RCW (~~28A.58.135~~) 28A.335.190; or

(b) The competitive solicitation of proposals and their evaluation consistent with the process and criteria recommended or required, as the case may be, by the office of financial management for state agency acquisition of personal service contractors;

(2) "Pupil transportation services contract" means a contract for the operation of privately owned or school district owned school buses, and the services of drivers or operators, management and supervisory personnel, and their support personnel such as secretaries, dispatchers, and mechanics, or any combination thereof, to provide students with transportation to and from school on a regular basis; and

(3) "School bus" means a motor vehicle as defined in RCW 46.04.521 and under the rules of the superintendent of public instruction.

Sec. 141. Section 1, chapter 265, Laws of 1981 as amended by section 2, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.41.505 are each amended to read as follows:

Funds allocated for transportation costs shall be in addition to the basic education allocation. The distribution formula developed in RCW (~~28A.41.505 through 28A.41.520~~) 28A.160.150 through 28A.160.180 shall be for allocation purposes only and shall not be construed as mandating specific levels of pupil transportation services by local districts. Operating costs as determined under RCW (~~28A.41.505 through 28A.41.520~~) 28A.160.150 through 28A.160.180 shall be funded at one hundred percent or as close thereto as reasonably possible for transportation of an eligible student to and from school as defined in RCW (~~28A.41.510(3)~~) 28A.160.160(3).

Sec. 142. Section 2, chapter 265, Laws of 1981 as amended by section 3, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.41.510 are each amended to read as follows:

For purposes of RCW (~~28A.41.505 through 28A.41.525~~) 28A.160.150 through 28A.160.190, except where the context shall clearly indicate otherwise, the following definitions apply:

(1) "Eligible student" means any student served by the transportation program of a school district or compensated for individual transportation arrangements authorized by RCW (~~(28A.24.100)~~) 28A.160.030 whose route stop is more than one radius mile from the student's school, except if the student to be transported: (a) Is handicapped under RCW (~~(28A.13.010, as now or hereafter amended;)~~) 28A.155.020 and is either not ambulatory or not capable of protecting his or her own welfare while traveling to or from the school or agency where special education services are provided, in which case no mileage distance restriction applies; or (b) qualifies for an exemption due to hazardous walking conditions.

(2) "Superintendent" means the superintendent of public instruction.

(3) "To and from school" means the transportation of students for the following purposes:

(a) Transportation to and from route stops and schools;

(b) Transportation to and from schools pursuant to an interdistrict agreement pursuant to RCW (~~(28A.58.075)~~) 28A.335.160;

(c) Transportation of students between schools and learning centers for instruction specifically required by statute; and

(d) Transportation of handicapped students to and from schools and agencies for special education services.

Extended day transportation shall not be considered part of transportation of students "to and from school" for the purposes of this 1983 act.

(4) "Hazardous walking conditions" means those instances of the existence of dangerous walkways documented by the board of directors of a school district which meet criteria specified in rules adopted by the superintendent of public instruction. A school district that receives an exemption for hazardous walking conditions should demonstrate that good faith efforts are being made to alleviate the problem and that the district, in cooperation with other state and local governing authorities, is attempting to reduce the incidence of hazardous walking conditions. The superintendent of public instruction shall appoint an advisory committee to prepare guidelines and procedures for determining the existence of hazardous walking conditions. The committee shall include but not be limited to representatives from law enforcement agencies, school districts, the department of transportation, city and county government, the insurance industry, parents, school directors and legislators.

Sec. 143. Section 3, chapter 265, Laws of 1981 as amended by section 4, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.41.515 are each amended to read as follows:

Each district shall submit to the superintendent of public instruction during October of each year a report containing the following:

(1)(a) The number of eligible students transported to and from school as provided for in RCW (~~(28A.41.505)~~) 28A.160.150 for the current school year and the number of miles estimated to be driven for pupil transportation

services, along with a map describing student route stop locations and school locations, and (b) the number of miles driven for pupil transportation services as authorized in RCW ((28A.41.505)) 28A.160.150 the previous school year; and

(2) Other operational data and descriptions as required by the superintendent to determine allocation requirements for each district.

Each district shall submit the information required in this section on a timely basis as a condition of the continuing receipt of school transportation moneys.

Sec. 144. Section 4, chapter 265, Laws of 1981 as last amended by section 1, chapter 59, Laws of 1985 and RCW 28A.41.520 are each amended to read as follows:

Each district's annual student transportation allocation shall be based on differential rates determined by the superintendent of public instruction in the following manner:

(1) The superintendent shall annually calculate a standard student mile allocation rate for determining the transportation allocation for those services provided for in RCW ((28A.41.505)) 28A.160.150. "Standard student mile allocation rate," as used in this chapter, means the per mile allocation rate for transporting an eligible student. The standard student mile allocation rate may be adjusted to include such additional differential factors as distance; restricted passenger load; circumstances that require use of special types of transportation vehicles; handicapped student load; and small fleet maintenance.

(2) The superintendent of public instruction shall annually calculate allocation rate(s), which shall include vehicle amortization, for determining the transportation allocation for transporting students in district-owned passenger cars, as defined in RCW 46.04.382, pursuant to RCW ((28A.24.055)) 28A.160.010 for services provided for in RCW ((28A.41.505)) 28A.160.150 if a school district deems it advisable to use such vehicles after the school district board of directors has considered the safety of the students being transported as well as the economy of utilizing a district-owned passenger car in lieu of a school bus.

(3) Prior to June 1st of each year the superintendent shall submit to the office of financial management, and the committees on education and ways and means of the senate and house of representatives a report outlining the methodology and rationale used in determining the allocation rates to be used the following year.

Sec. 145. Section 5, chapter 265, Laws of 1981 as last amended by section 2, chapter 59, Laws of 1985 and RCW 28A.41.525 are each amended to read as follows:

The superintendent shall notify districts of their student transportation allocation before January 15th. If the number of eligible students in a school district changes ten percent or more from the October report, and

the change is maintained for a period of twenty consecutive school days or more, the district may submit revised eligible student data to the superintendent of public instruction. The superintendent shall, to the extent funds are available, recalculate the district's allocation for the transportation of pupils to and from school.

The superintendent shall make the student transportation allocation in accordance with the apportionment payment schedule in RCW (~~(28A.48-010, as now or hereafter amended)~~) 28A.510.250. Such allocation payments may be based on estimated amounts for payments to be made in September, October, November, December, and January.

Sec. 146. Section 6, chapter 265, Laws of 1981 as amended by section 4, chapter 508, Laws of 1987 and RCW 28A.41.540 are each amended to read as follows:

The superintendent shall determine the vehicle acquisition allocation in the following manner:

(1) By May 1st of each year, the superintendent shall develop preliminary categories of student transportation vehicles to ensure adequate student transportation fleets for districts. The superintendent shall take into consideration the types of vehicles purchased by individual school districts in the state. The categories shall include, but not be limited to, variables such as vehicle capacity, type of chassis, type of fuel, engine and body type, special equipment, and life of vehicle. The categories shall be developed in conjunction with the local districts and shall be applicable to the following school year. The categories shall be designed to produce minimum long-range operating costs, including costs of equipment and all costs incurred in operating the vehicles. Each category description shall include the estimated state-determined purchase price, which shall be based on the actual costs of the vehicles purchased for that comparable category in the state during the preceding twelve months and the anticipated market price for the next school fiscal year. By June 15th of each year, the superintendent shall notify districts of the preliminary vehicle categories and state-determined purchase price for the ensuing school year. By October 15th of each year, the superintendent shall finalize the categories and the associated state-determined purchase price and shall notify districts of any changes. While it is the responsibility of each district to select each student transportation vehicle to be purchased by the district, each district shall be paid a sum based only on the amount of the state-determined purchase price and inflation as recognized by the reimbursement schedule established in this section as set by the superintendent for the category of vehicle purchased.

(2) The superintendent shall develop a reimbursement schedule to pay districts for the cost of student transportation vehicles purchased after September 1, 1982. The accumulated value of the payments and the potential investment return thereon shall be designed to be equal to the replacement

value of the vehicle less its salvage value at the end of its anticipated lifetime. The superintendent shall revise at least annually the reimbursement payments based on the current and anticipated future cost of comparable categories of transportation equipment. Reimbursements to school districts for approved transportation equipment shall be placed in a separate vehicle transportation fund established for each school district under RCW (~~(28A-58-428)~~) 28A.160.130. However, educational service districts providing student transportation services pursuant to RCW (~~(28A-21-086(4))~~) 28A.310.180(4) and receiving moneys generated pursuant to this section shall establish and maintain a separate vehicle transportation account in the educational service district's general expense fund for the purposes and subject to the conditions under RCW (~~(28A-58-428)~~) 28A.160.130 and (~~(28A-58-430)~~) 28A.320.300.

(3) To the extent possible, districts shall operate vehicles acquired under this section not less than the number of years or useful lifetime now, or hereafter, assigned to the class of vehicles by the superintendent. School districts shall properly maintain the transportation equipment acquired under the provisions of this section, in accordance with rules established by the office of the superintendent of public instruction. If a district fails to follow generally accepted standards of maintenance and operation, the superintendent of public instruction shall penalize the district by deducting from future reimbursements under this section an amount equal to the original cost of the vehicle multiplied by the fraction of the useful lifetime or miles the vehicle failed to operate.

(4) The superintendent shall annually develop a depreciation schedule to recognize the cost of depreciation to districts contracting with private carriers for student transportation. Payments on this schedule shall be a straight line depreciation based on the original cost of the appropriate category of vehicle.

Sec. 147. Section 1, chapter 3, Laws of 1973 1st ex. sess. and RCW 28A.41.180 are each amended to read as follows:

If the superintendent of public instruction or the state board of education, in carrying out their powers and duties under Title 28A RCW, request the service of any certificated employee of a school district upon any committee formed for the purpose of furthering education within the state, or within any school district therein, and such service would result in a need for a school district to employ a substitute for such certificated employee during such service, payment for such a substitute may be made by the superintendent of public instruction from funds appropriated by the legislature for the current use of the common schools and such payments shall be construed as amounts needed for state support to the common schools under RCW (~~(28A-41-050)~~) 28A.150.380. If such substitute is paid by the superintendent of public instruction, no deduction shall be made from the salary of the certificated employee. In no event shall a school district deduct from

the salary of a certificated employee serving on such committee more than the amount paid the substitute employed by the district.

4. Learning Assistance Program

Sec. 148. Section 3, chapter 478, Laws of 1987 and RCW 28A.120.014 are each amended to read as follows:

Unless the context clearly indicates otherwise the definitions in this section apply throughout RCW (~~((28A.120.010 through 28A.120.026))~~) 28A.165.010 through 28A.165.090.

(1) "Basic skills" means reading, mathematics, and language arts as well as readiness activities associated with such skills.

(2) "Placement testing" means the administration of objective measures by a school district for the purposes of diagnosing the basic skills achievement levels, determining the basic skills areas of greatest need, and establishing the learning assistance needs of individual students in conformance with instructions established by the superintendent of public instruction for such purposes.

(3) "Approved program" means a program conducted pursuant to a plan submitted by a district and approved by the superintendent of public instruction under RCW (~~((28A.120.016))~~) 28A.165.040.

(4) "Participating student" means a student in kindergarten through grade nine who scores below grade level in basic skills, as determined by placement testing, and who is identified under RCW (~~((28A.120.018))~~) 28A.165.050 to receive additional services or support under an approved program.

(5) "Basic skills tests" means state-wide tests at the fourth and eighth grade levels established pursuant to RCW (~~((28A.03.360))~~) 28A.230.190.

Sec. 149. Section 4, chapter 478, Laws of 1987 as amended by section 2, chapter 233, Laws of 1989 and RCW 28A.120.016 are each amended to read as follows:

Each school district which applies for state funds distributed pursuant to RCW (~~((28A.120.022))~~) 28A.165.070 shall conduct a needs assessment and, on the basis of its findings, shall develop a plan for the use of these funds. The plan may incorporate plans developed by each eligible school. Districts are encouraged to place special emphasis on addressing the needs of students in the early grades. The needs assessment and plan shall be updated at least biennially, and shall be determined in consultation with an advisory committee including but not limited to members of the following groups: Parents, including parents of students served by the program; teachers; principals; administrators; and school directors. The district shall submit a biennial application specifying this plan to the office of the superintendent of public instruction for approval. Plans shall include:

(1) The means which the district will use to identify participating students to receive additional services or support under the proposed program;

(2) The specific services or activities which the funds will be used to support, and their estimated costs;

(3) A plan for annual evaluation of the program by the district, based on performance objectives related to basic skills achievement of participating students, and a plan for reporting the results of this evaluation to the superintendent of public instruction;

(4) Procedures for recordkeeping or other program documentation as may be required by the superintendent of public instruction; and

(5) The approval of the local school district board of directors.

Sec. 150. Section 7, chapter 478, Laws of 1987 and RCW 28A.120.022 are each amended to read as follows:

Each school district which has established an approved program shall be eligible, as determined by the superintendent of public instruction, for state funds made available for the purposes of such programs. The superintendent of public instruction shall make use of data derived from the basic skills tests in determining the amount of funds for which a district may be eligible. Funds shall be distributed according to the district's total full-time equivalent enrollment in kindergarten through grade nine and the percentage of the district's students taking the basic skills tests who scored in the lowest quartile as compared with national norms. In making this calculation, the superintendent of public instruction may use an average over the immediately preceding five or fewer years of the district's percentage scoring in the lowest quartile. The superintendent of public instruction shall also deduct the number of students at these age levels who are identified as specific learning disabled and are generating state funds for special education programs conducted pursuant to ~~((chapter 28A.13))~~ RCW 28A.155.010 through 28A.155.100, in distributing state funds for learning assistance. The distribution formula in this section is for allocation purposes only.

Sec. 151. Section 8, chapter 478, Laws of 1987 and RCW 28A.120.024 are each amended to read as follows:

In order to insure that school districts are meeting the requirements of an approved program, the superintendent of public instruction shall monitor such programs no less than once every three years. The results of the evaluations required by RCW ~~((28A.120.016))~~ 28A.165.040 shall be transmitted to the superintendent of public instruction annually. Individual student records shall be maintained at the school district.

Sec. 152. Section 9, chapter 478, Laws of 1987 and RCW 28A.120.026 are each amended to read as follows:

The superintendent of public instruction shall promulgate rules pursuant to chapter 34.05 RCW which he or she deems necessary to implement RCW ~~((28A.120.010 through 28A.120.024))~~ 28A.165.010 through 28A.165.080.

5. Substance Abuse Awareness Program

Sec. 153. Section 206, chapter 518, Laws of 1987 as amended by section 5, chapter 233, Laws of 1989 and RCW 28A.120.032 are each amended to read as follows:

The superintendent of public instruction shall adopt rules to implement this section, RCW (~~28A.120.030, and 28A.120.034 through 28A.120.050~~) 28A.170.010, and 28A.170.030 through 28A.170.070 and shall distribute to school districts on a grant basis, from moneys appropriated for the purposes of this section, RCW (~~28A.120.030 and 28A.120.034 through 28A.120.050~~) 28A.170.010, and 28A.170.030 through 28A.170.070, funds for the development and implementation of educational and disciplinary policies leading to the implementation of prevention, intervention, and aftercare activities regarding the use and abuse of drugs and alcohol. The following program areas may be funded through moneys made available for this section, RCW (~~28A.120.030, and 28A.120.034 through 28A.120.050~~) 28A.170.010, and 28A.170.030 through 28A.170.070, including but not limited to:

- (1) Comprehensive program development;
- (2) Prevention programs directed at addressing addictive substances such as alcohol, drugs, and nicotine;
- (3) Elementary identification and intervention programs including counseling programs;
- (4) Secondary identification and intervention programs including counseling programs;
- (5) School drug and alcohol core team development and training;
- (6) Development of referral and preassessment procedures;
- (7) Aftercare;
- (8) Drug and alcohol specialist;
- (9) Staff, parent, student, and community training; and
- (10) Coordination with law enforcement, community service providers, other school districts, educational service districts, and drug and alcohol treatment facilities.

Sec. 154. Section 208, chapter 518, Laws of 1987 and RCW 28A.120.036 are each amended to read as follows:

School districts may apply on an annual basis to the superintendent of public instruction for continued funding of a local substance abuse awareness program meeting the provisions of RCW (~~28A.120.032 through 28A.120.050~~) 28A.170.020 through 28A.170.070 and shall submit an application that includes: (1) Verification of the adoption of comprehensive district policies; (2) proposed changes to the district's substance abuse awareness program, where necessary; (3) proposed areas of expenditures; (4) the district's plan to provide matching funds of an amount to equal at least twenty percent of the state funds for which the district is eligible; (5) a plan for program evaluation; and (6) a report evaluating the effectiveness of

the previously funded program one year after the program is implemented, including all the information required in this section.

Sec. 155. Section 211, chapter 518, Laws of 1987 and RCW 28A.120.050 are each amended to read as follows:

If any part of RCW (~~(28A.120.032 through 28A.120.040)~~) 28A.170.020 through 28A.170.060 is found to be in conflict with federal requirements which are a prescribed condition to the allocation of federal funds to the state, the conflicting part of RCW (~~(28A.120.032 through 28A.120.040)~~) 28A.170.020 through 28A.170.060 is hereby declared to be inoperative solely to the extent of the conflict and with respect to the agencies directly affected, and such finding or determination shall not affect the operation of the remainder of RCW (~~(28A.120.032 through 28A.120.040)~~) 28A.170.020 through 28A.170.060 in its application to the agencies concerned. The rules under RCW (~~(28A.120.032 through 28A.120.040)~~) 28A.170.020 through 28A.170.060 shall meet federal requirements which are a necessary condition to the receipt of federal funds by the state.

Sec. 156. Section 310, chapter 271, Laws of 1989 and RCW 28A.120.080 are each amended to read as follows:

(1) The legislature finds that the provision of drug and alcohol counseling and related prevention and intervention services in schools will enhance the classroom environment for students and teachers, and better enable students to realize their academic and personal potentials.

(2) The legislature finds that it is essential that resources be made available to school districts to provide early drug and alcohol prevention and intervention services to students and their families; to assist in referrals to treatment providers; and to strengthen the transition back to school for students who have had problems of drug and alcohol abuse.

(3) New and existing substance abuse awareness programs funded pursuant to RCW (~~(28A.120.030 through 28A.120.050)~~) 28A.170.010 through 28A.170.070 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.

(4) The legislature intends to provide grants for drug and alcohol abuse prevention and intervention in schools, targeted to those schools with the highest concentrations of students at risk.

Sec. 157. Section 311, chapter 271, Laws of 1989 and RCW 28A.120.082 are each amended to read as follows:

(1) Grants provided under RCW (~~(28A.120.084)~~) 28A.170.090 may be used solely for services provided by a substance abuse intervention specialist or for dedicated staff time for counseling and intervention services provided by any school district certificated employee who has been trained by and has access to consultation with a substance abuse intervention specialist. Services shall be directed at assisting students in kindergarten

through twelfth grade in overcoming problems of drug and alcohol abuse, and in preventing abuse and addiction to such substances, including nicotine. The grants shall require local matching funds so that the grant amounts support a maximum of eighty percent of the costs of the services funded. The services of a substance abuse intervention specialist may be obtained by means of a contract with a state or community services agency or a drug treatment center. Services provided by a substance abuse intervention specialist may include:

- (a) Individual and family counseling, including preventive counseling;
- (b) Assessment and referral for treatment;
- (c) Referral to peer support groups;
- (d) Aftercare;
- (e) Development and supervision of student mentor programs;
- (f) Staff training, including training in the identification of high-risk children and effective interaction with those children in the classroom; and
- (g) Development and coordination of school drug and alcohol core teams, involving staff, students, parents, and community members.

(2) For the purposes of this section, "substance abuse intervention specialist" means any one of the following, except that diagnosis and assessment, counseling and aftercare specifically identified with treatment of chemical dependency shall be performed only by personnel who meet the same qualifications as are required of a qualified chemical dependency counselor employed by an alcoholism or drug treatment program approved by the department of social and health services.

(a) An educational staff associate employed by a school district or educational service district who holds certification as a school counselor, school psychologist, school nurse, or school social worker under state board of education rules adopted pursuant to RCW ((~~28A.04.120~~) 28A.305.130;

(b) An individual who meets the definition of a qualified drug or alcohol counselor established by the bureau of alcohol and substance abuse;

(c) A counselor, social worker, or other qualified professional employed by the department of social and health services;

(d) A psychologist licensed under chapter 18.83 RCW; or

(e) A children's mental health specialist as defined in RCW 71.34.020.

Sec. 158. Section 312, chapter 271, Laws of 1989 and RCW 28A.120-.084 are each amended to read as follows:

(1) The superintendent of public instruction shall select school districts and cooperatives of school districts to receive grants for drug and alcohol abuse prevention and intervention programs for students in kindergarten through twelfth grade, from funds appropriated by the legislature for this purpose. The minimum annual grant amount per district or cooperative of districts shall be twenty thousand dollars. Factors to be used in selecting proposals for funding and in determining grant awards shall be developed in consultation with the substance abuse advisory committee appointed under

RCW (~~28A.120.038~~) 28A.170.050, with the intent of targeting funding to districts with high-risk populations. These factors may include:

(a) Characteristics of the school attendance areas to be served, such as the number of students from low-income families, truancy rates, juvenile justice referrals, and social services caseloads;

(b) The total number of students who would have access to services; and

(c) Participation of community groups and law enforcement agencies in drug and alcohol abuse prevention and intervention activities.

(2) The application procedures for grants under this section shall be consistent with the application procedures for other grants for substance abuse awareness programs under RCW (~~28A.120.032~~) 28A.170.020, including provisions for comprehensive planning, establishment of a school and community substance abuse advisory committee, and documentation of the district's needs assessment. Planning and application for grants under this section may be integrated with the development of other substance abuse awareness programs by school districts, and other grants under RCW (~~28A.120.030 through 28A.120.036~~) 28A.170.010 through 28A.170.040 shall not require a separate application. School districts shall, to the maximum extent feasible, coordinate the use of grants provided under this section with other funding available for substance abuse awareness programs. School districts should allocate resources giving emphasis to drug and alcohol abuse intervention services for students in grades five through nine. Grants may be used to provide services for students who are enrolled in approved private schools.

(3) School districts receiving grants under this section shall be required to establish a means of accessing formal assessment services for determining treatment needs of students with drug and alcohol problems. The grant applications submitted by districts shall identify the districts' plan for meeting this requirement.

(4) School districts receiving grants under this section shall be required to perform biennial evaluations of their drug and alcohol abuse prevention and intervention programs, and to report on the results of these evaluations to the superintendent of public instruction.

(5) The superintendent of public instruction may adopt rules to implement RCW (~~28A.120.082 through 28A.120.086~~) 28A.170.080 through 28A.170.100.

Sec. 159. Section 313, chapter 271, Laws of 1989 and RCW 28A.120.086 are each amended to read as follows:

(1) School districts are encouraged to promote parent and community involvement in drug and alcohol abuse prevention and intervention programs, through parent visits under RCW (~~28A.58.053~~) 28A.605.020 and through any school involvement program established by the district under

RCW (~~(28A.58.640 through 28A.58.648)~~) 28A.615.010 through 28A.615.050.

(2) Districts are further encouraged to review drug and alcohol prevention and intervention programs as part of the self-study procedures required under RCW (~~(28A.58.085)~~) 28A.320.200 and as part of any annual goal-setting process the district may have established under RCW (~~(28A.58.094)~~) 28A.320.220.

6. Dropout Prevention and Retrieval Program

Sec. 160. Section 214, chapter 518, Laws of 1987 as amended by section 1, chapter 209, Laws of 1989 and RCW 28A.120.062 are each amended to read as follows:

(1) The superintendent of public instruction is authorized and shall grant funds to selected school districts to assist in the development of student motivation, retention, and retrieval programs for youth who are at risk of dropping out of school or who have dropped out of school. The purpose of the state assistance for such school district programs is to provide districts the necessary money which will encourage the development by districts or cooperatives of districts of integrated programs for students who are at risk of dropping out of school or who have dropped out of school.

(2) Funds as may be appropriated for the purposes of this section and RCW (~~(28A.120.064 through 28A.120.072)~~) 28A.175.040 through 28A.175.070 shall be distributed to qualifying school districts for initial planning, development, and implementation of educational programs designed to motivate, retain, and retrieve students.

(3) Funds shall be distributed among qualifying school districts on a per pupil basis in accordance with the following state funding formula: To determine the per pupil allocation, the appropriation for this purpose shall be divided by the total full-time equivalent student population of all qualifying districts as determined on October 1 of the first year of each biennium. The resulting dollar amount shall be multiplied by the current school year October 1 total full-time equivalent student population of each qualifying school district to determine the maximum grant that each qualifying school district is eligible to receive. No district may receive more than is necessary for planning and implementation activities outlined in the district's grant application.

(4) The eligibility of a school district or cooperative of school districts to receive program implementation funds shall be determined once every two years.

(5) Should one or more eligible school districts not request funds available under subsection (3) of this section, the funds may be expended or allocated to other qualifying school districts on a nonformula grant basis by the superintendent of public instruction for the purpose of furthering student motivation, retention, and retrieval programs.

Sec. 161. Section 215, chapter 518, Laws of 1987 as amended by section 2, chapter 209, Laws of 1989 and RCW 28A.120.064 are each amended to read as follows:

(1) In distributing grant funds, the superintendent of public instruction shall first award funds to each school district with a dropout rate which, as determined by the superintendent of public instruction, is over time in the top twenty-five percent of all districts' dropout rates.

(2) The superintendent may grant funds to a cooperative of districts which may include one district, or more, whose dropout rate is not in the top twenty-five percent of all districts' dropout rates.

(3) The sum of all grants awarded pursuant to RCW (~~(28A.120.062 through 28A.120.072)~~) 28A.175.030 through 28A.175.070 for a particular biennium shall not exceed the amount appropriated by the legislature for such purposes.

Sec. 162. Section 217, chapter 518, Laws of 1987 and RCW 28A.120.068 are each amended to read as follows:

The superintendent of public instruction shall adopt rules to carry out the purposes of RCW (~~(28A.120.062 through 28A.120.072)~~) 28A.175.030 through 28A.175.070. The rules adopted by the superintendent of public instruction shall include but not be limited to:

(1) Providing for an annual evaluation of the effectiveness of the program;

(2) Requiring that no less than twenty percent of the moneys from the program implementation grant be used for identification and intervention programs in elementary and middle schools;

(3) Establishing procedures allowing school districts to claim basic education allocation funds for students attending a program conducted under RCW (~~(28A.120.062 through 28A.120.072)~~) 28A.175.030 through 28A.175.070 outside the regular school-year calendar, to the extent such attendance is in lieu of attendance within the regular school-year calendar; and

(4) Evaluating the number of children within an applicant district who fail to complete their elementary and secondary education with priority going to districts with dropout rates over time in the top twenty-five percent of all districts' dropout rates.

7. Transitional Bilingual Instruction Program

Sec. 163. Section 1, chapter 95, Laws of 1979 as amended by section 1, chapter 124, Laws of 1984 and RCW 28A.58.800 are each amended to read as follows:

RCW (~~(28A.58.800 through 28A.58.810)~~) 28A.180.010 through 28A.180.080 shall be known and cited as "The Transitional Bilingual Instruction Act(^(A)).". The legislature finds that there are large numbers of children who come from homes where the primary language is other than

English. The legislature finds that a transitional bilingual education program can meet the needs of these children. Pursuant to the policy of this state to insure equal educational opportunity to every child in this state, it is the purpose of RCW ((~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080) to provide for the implementation of transitional bilingual education programs in the public schools, and to provide supplemental financial assistance to school districts to meet the extra costs of these programs.

Sec. 164. Section 2, chapter 95, Laws of 1979 as amended by section 2, chapter 124, Laws of 1984 and RCW 28A.58.802 are each amended to read as follows:

As used in RCW ((~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080), unless the context thereof indicates to the contrary:

(1) "Transitional bilingual instruction" means:

(a) A system of instruction which uses two languages, one of which is English, as a means of instruction to build upon and expand language skills to enable the pupil to achieve competency in English. Concepts and information are introduced in the primary language and reinforced in the second language: PROVIDED, That the program shall include testing in the subject matter in English; or

(b) In those cases in which the use of two languages is not practicable as established by the superintendent of public instruction and unless otherwise prohibited by law, an alternative system of instruction which may include English as a second language and is designed to enable the pupil to achieve competency in English.

(2) "Primary language" means the language most often used by the student for communication in his/her home.

(3) "Eligible pupil" means any enrollee of the school district whose primary language is other than English and whose English language skills are sufficiently deficient or absent to impair learning.

Sec. 165. Section 5, chapter 95, Laws of 1979 as amended by section 5, chapter 124, Laws of 1984 and RCW 28A.58.808 are each amended to read as follows:

The superintendent of public instruction shall:

(1) Promulgate and issue program development guidelines to assist school districts in preparing their programs;

(2) Promulgate rules for implementation of RCW ((~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080) in accordance with chapter 34.05 RCW. The rules shall be designed to maximize the role of school districts in selecting programs appropriate to meet the needs of eligible students. The rules shall identify the process and criteria to be used to determine when a student is no longer eligible for transitional bilingual instruction pursuant to RCW ((~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080).

Sec. 166. Section 6, chapter 124, Laws of 1984 and RCW 28A.58.809 are each amended to read as follows:

School districts may enrich the programs required by RCW (~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080; PROVIDED, That such enrichment shall not constitute a basic education responsibility of the state.

Sec. 167. Section 6, chapter 95, Laws of 1979 and RCW 28A.58.810 are each amended to read as follows:

The superintendent of public instruction shall prepare and submit biennially to the governor and the legislature a budget request for bilingual instruction programs. Moneys appropriated by the legislature for the purposes of RCW (~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080 shall be allocated by the superintendent of public instruction to school districts for the sole purpose of operating an approved bilingual instruction program; priorities for funding shall exist for the early elementary grades. No moneys shall be allocated pursuant to this section to fund more than three school years of bilingual instruction for each eligible pupil within a district; PROVIDED, That such moneys may be allocated to fund more than three school years of bilingual instruction for any pupil who fails to demonstrate improvement in English language skills adequate to remove impairment of learning when taught only in English. The superintendent of public instruction shall set standards and approve a test for the measurement of such English language skills. School districts are hereby empowered to accept grants, gifts, donations, devices and other gratuities from private and public sources to aid in accomplishing the purposes of RCW (~~28A.58.800 through 28A.58.810~~) 28A.180.010 through 28A.180.080.

8. Highly Capable

Sec. 168. Section 14, chapter 278, Laws of 1984 and RCW 28A.16.050 are each amended to read as follows:

Supplementary funds as may be provided by the state for this program, in accordance with RCW (~~28A.41.162~~) 28A.150.370, shall be categorical funding on an excess cost basis based upon a per student amount not to exceed three percent of any district's full-time equivalent enrollment.

Sec. 169. Section 222, chapter 518, Laws of 1987 as amended by section 9, chapter 233, Laws of 1989 and RCW 28A.58.217 are each amended to read as follows:

(1) The superintendent of public instruction shall contract with the University of Washington for the education of highly capable students below eighteen years of age who are admitted or enrolled at such early entrance program or transition school as are now or hereafter established and maintained by the University of Washington.

(2) The superintendent of public instruction shall allocate directly to the University of Washington all of the state basic education allocation

moneys, state categorical moneys excepting categorical moneys provided for the highly capable students program under (~~chapter 28A.16~~) RCW 28A.185.010 through 28A.185.030, and federal moneys generated by a student while attending an early entrance program or transition school at the University of Washington. The allocations shall be according to each student's school district of residence. The expenditure of such moneys shall be limited to selection of students, precollege instruction, special advising, and related activities necessary for the support of students while attending a transition school or early entrance program at the University of Washington. Such allocations may be supplemented with such additional payments by other parties as necessary to cover the actual and full costs of such instruction and other activities.

(3) The provisions of subsections (1) and (2) of this section shall apply during the first three years a student is attending a transition school or early entrance program at the University of Washington or through the academic school year in which the student turns eighteen, whichever occurs first. No more than thirty students shall be admitted and enrolled in the transition school at the University of Washington in any one year.

(4) The superintendent of public instruction shall adopt or amend rules pursuant to chapter 34.05 RCW implementing subsection (2) of this section before August 31, 1989.

9. Residential Education Programs

Sec. 170. Section 3, chapter 98, Laws of 1983 and RCW 28A.58.765 are each amended to read as follows:

A program of education shall be provided for by the department of social and health services and the several school districts of the state for common school age persons who have been admitted to facilities staffed and maintained by the department of social and health services for the education and treatment of juveniles who have been diverted or who have been found to have committed a juvenile offense. The division of duties, authority, and liabilities of the department of social and health services and the several school districts of the state respecting the educational programs shall be the same in all respects as set forth in RCW (~~28A.58.772 through 28A.58.778~~) 28A.190.030 through 28A.190.060 respecting programs of education for state residential school residents. For the purposes of this section, the term "residential school" or "schools" as used in RCW (~~28A.58.772 through 28A.58.778~~) 28A.190.030 through 28A.190.060 shall be construed to mean a facility staffed and maintained by the department of social and health services for the education and treatment of juvenile offenders on probation or parole. Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW (~~28A.21.086~~) 28A.310.180.

Sec. 171. Section 1, chapter 217, Laws of 1979 ex. sess. and RCW 28A.58.770 are each amended to read as follows:

The term "residential school" as used in RCW (~~28A.58.770 through 28A.58.778~~) 28A.190.020 through 28A.190.060, 72.01.200, 72.05.010 and 72.05.130, each as now or hereafter amended, shall mean Green Hill school, Maple Lane school, Naselle Youth Camp, Cedar Creek Youth Camp, Mission Creek Youth Camp, Echo Glen, (~~Cascadia Diagnostic Center~~;) Lakeland Village, Rainier school, Yakima Valley school, Interlake school, Fircrest school, Francis Haddon Morgan Center, the Child Study and Treatment Center and Secondary School of Western State Hospital, and such other schools, camps, and centers as are now or hereafter established by the department of social and health services for the diagnosis, confinement and rehabilitation of juveniles committed by the courts or for the care and treatment of persons who are exceptional in their needs by reason of mental and/or physical deficiency: PROVIDED, That the term shall not include the state schools for the deaf and blind or adult correctional institutions.

Sec. 172. Section 2, chapter 217, Laws of 1979 ex. sess. as last amended by section 13, chapter 341, Laws of 1985 and RCW 28A.58.772 are each amended to read as follows:

Each school district within which there is located a residential school shall, singly or in concert with another school district pursuant to RCW (~~28A.58.075 and 28A.58.245~~) 28A.335.160 and 28A.225.250 or pursuant to chapter 39.34 RCW, (~~each as now or hereafter amended~~;) conduct a program of education, including related student activities, for residents of the residential school. Except as otherwise provided for by contract pursuant to RCW (~~28A.58.776, as now or hereafter amended~~) 28A.190.050, the duties and authority of a school district and its employees to conduct such a program shall be limited to the following:

(1) The employment, supervision and control of administrators, teachers, specialized personnel and other persons, deemed necessary by the school district for the conduct of the program of education;

(2) The purchase, lease or rental and provision of textbooks, maps, audio-visual equipment, paper, writing instruments, physical education equipment and other instructional equipment, materials and supplies, deemed necessary by the school district for the conduct of the program of education;

(3) The development and implementation, in consultation with the superintendent or chief administrator of the residential school or his or her designee, of the curriculum;

(4) The conduct of a program of education, including related student activities, for residents who are three years of age and less than twenty-one years of age, and have not met high school graduation requirements as now or hereafter established by the state board of education and the school district which includes:

(a) Not less than one hundred and eighty school days each school year;

(b) Special education pursuant to (~~chapter 28A.13 RCW, as now or hereafter amended~~) RCW 28A.155.010 through 28A.155.100, and vocational education, as necessary to address the unique needs and limitations of residents; and

(c) Such courses of instruction and school related student activities as are provided by the school district for nonresidential school students to the extent it is practical and judged appropriate for the residents by the school district after consultation with the superintendent or chief administrator of the residential school: PROVIDED, That a preschool special education program may be provided for handicapped residential school students;

(5) The control of students while participating in a program of education conducted pursuant to this section and the discipline, suspension or expulsion of students for violation of reasonable rules of conduct adopted by the school district; and

(6) The expenditure of funds for the direct and indirect costs of maintaining and operating the program of education that are appropriated by the legislature and allocated by the superintendent of public instruction for the exclusive purpose of maintaining and operating residential school programs of education, and funds from federal and private grants, bequests and gifts made for the purpose of maintaining and operating the program of education.

Sec. 173. Section 3, chapter 217, Laws of 1979 ex. sess. and RCW 28A.58.774 are each amended to read as follows:

The duties and authority of the department of social and health services and of each superintendent or chief administrator of a residential school to support each program of education conducted by a school district pursuant to RCW (~~28A.58.772, as now or hereafter amended~~) 28A.190.030, shall include the following:

(1) The provision of transportation for residential school students to and from the sites of the program of education through the purchase, lease or rental of school buses and other vehicles as necessary;

(2) The provision of safe and healthy building and playground space for the conduct of the program of education through the construction, purchase, lease or rental of such space as necessary;

(3) The provision of furniture, vocational instruction machines and tools, building and playground fixtures, and other equipment and fixtures for the conduct of the program of education through construction, purchase, lease or rental as necessary;

(4) The provision of heat, lights, telephones, janitorial services, repair services, and other support services for the vehicles, building and playground spaces, equipment and fixtures provided for in this section;

(5) The employment, supervision and control of persons to transport students and to maintain the vehicles, building and playground spaces, equipment and fixtures, provided for in this section;

(6) Clinical and medical evaluation services necessary to a determination by the school district of the educational needs of residential school students; and

(7) Such other support services and facilities as are reasonably necessary for the conduct of the program of education.

Sec. 174. Section 4, chapter 217, Laws of 1979 ex. sess. and RCW 28A.58.776 are each amended to read as follows:

Each school district required to conduct a program of education pursuant to RCW (~~(28A.58.772, as now or hereafter amended)~~) 28A.190.030, and the department of social and health services shall hereafter negotiate and execute a written contract for each school year or such longer period as may be agreed to which delineates the manner in which their respective duties and authority will be cooperatively performed and exercised, and any disputes and grievances resolved. Any such contract may provide for the performance of duties by a school district in addition to those set forth in (~~(subsections (1) through (5) of RCW 28A.58.772, as now or hereafter amended)~~) RCW 28A.190.030 (1) through (5), including duties imposed upon the department of social and health services and its agents pursuant to RCW (~~(28A.58.774, as now or hereafter amended)~~) 28A.190.040: PROVIDED, That funds identified in (~~(subsection (6) of RCW 28A.58.772 as now or hereafter amended;)~~) RCW 28A.190.030(6) and/or funds provided by the department of social and health services are available to fully pay the direct and indirect costs of such additional duties and the district is otherwise authorized by law to perform such duties in connection with the maintenance and operation of a school district.

Sec. 175. Section 5, chapter 217, Laws of 1979 ex. sess. and RCW 28A.58.778 are each amended to read as follows:

The department of social and health services shall provide written notice on or before April 15th of each school year to the superintendent of each school district conducting a program of education pursuant to RCW (~~(28A.58.772 through 28A.58.776, as now or hereafter amended;)~~) 28A.190.030 through 28A.190.050 of any foreseeable residential school closure, reduction in the number of residents, or any other cause for a reduction in the school district's staff for the next school year. In the event the department of social and health services fails to provide notice as prescribed by this section, the department shall be liable and responsible for the payment of the salary and employment related costs for the next school year of each school district employee whose contract the school district would have nonrenewed but for the failure of the department to provide notice.

10. Private Schools

Sec. 176. Section 2, chapter 92, Laws of 1974 ex. sess. as last amended by section 1, chapter 16, Laws of 1985 and by section 4, chapter 441, Laws of 1985 and RCW 28A.02.201 are each reenacted and amended to read as follows:

The legislature hereby recognizes that private schools should be subject only to those minimum state controls necessary to insure the health and safety of all the students in the state and to insure a sufficient basic education to meet usual graduation requirements. The state, any agency or official thereof, shall not restrict or dictate any specific educational or other programs for private schools except as hereinafter in this section provided.

Principals of private schools or superintendents of private school districts shall file each year with the state superintendent of public instruction a statement certifying that the minimum requirements hereinafter set forth are being met, noting any deviations. After review of the statement, the state superintendent will notify schools or school districts of those deviations which must be corrected. In case of major deviations, the school or school district may request and the state board of education may grant provisional status for one year in order that the school or school district may take action to meet the requirements. Minimum requirements shall be as follows:

(1) The minimum school year for instructional purposes shall consist of no less than one hundred eighty school days or the equivalent in annual minimum program hour offerings as prescribed in RCW (~~28A.58.754~~) 28A.150.220.

(2) The school day shall be the same as that required in RCW (~~28A.01.010 and 28A.58.754, each as now or hereafter amended~~) 28A.150.030 and 28A.150.220, except that the percentages of total program hour offerings as prescribed in RCW (~~28A.58.754~~) 28A.150.220 for basic skills, work skills, and optional subjects and activities shall not apply to private schools or private sectarian schools.

(3) All classroom teachers shall hold appropriate Washington state certification except as follows:

(a) Teachers for religious courses or courses for which no counterpart exists in public schools shall not be required to obtain a state certificate to teach those courses.

(b) In exceptional cases, people of unusual competence but without certification may teach students so long as a certified person exercises general supervision. Annual written statements shall be submitted to the office of the superintendent of public instruction reporting and explaining such circumstances.

(4) An approved private school may operate an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody. The extension program shall require at a minimum that:

(a) The parent, guardian, or custodian be under the supervision of an employee of the approved private school who is certified under chapter ~~((28A.70))~~ 28A.410 RCW;

(b) The planning by the certified person and the parent, guardian, or person having legal custody include objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spend a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the approved private school extension program;

(d) Each student's progress be evaluated by the certified person; and

(e) The certified employee shall not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Appropriate measures shall be taken to safeguard all permanent records against loss or damage.

(6) The physical facilities of the school or district shall be adequate to meet the program offered by the school or district: PROVIDED, That each school building shall meet reasonable health and fire safety requirements. A residential dwelling of the parent, guardian, or custodian shall be deemed to be an adequate physical facility when a parent, guardian, or person having legal custody is instructing his or her child under subsection (4) of this section.

(7) Private school curriculum shall include instruction of the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music, all in sufficient units for meeting state board of education graduation requirements.

(8) Each school or school district shall be required to maintain up-to-date policy statements related to the administration and operation of the school or school district.

All decisions of policy, philosophy, selection of books, teaching material, curriculum, except as in subsection (7) above provided, school rules and administration, or other matters not specifically referred to in this section, shall be the responsibility of the administration and administrators of the particular private school involved.

Sec. 177. Section 7, chapter 215, Laws of 1971 ex. sess. as last amended by section 29, chapter 3, Laws of 1983 and RCW 28A.02.240 are each amended to read as follows:

The state board of education shall promulgate rules and regulations for the enforcement of RCW ~~((28A.02.201 and 28A.02.220 through 28A.02.240, 28A.04.120 and 28A.27.010))~~ 28A.195.010 through 28A.195.040, 28A.225.010, and 28A.305.130, including a provision which denies approval to any school engaging in a policy of racial segregation or discrimination.

11. Home-Based Instruction

Sec. 178. Section 2, chapter 441, Laws of 1985 and RCW 28A.27.310 are each amended to read as follows:

Each parent whose child is receiving home-based instruction under RCW ((~~28A.27.010(4)~~) 28A.225.010(4)) shall have the duty to:

(1) File annually a signed declaration of intent that he or she is planning to cause his or her child to receive home-based instruction. The statement shall include the name and age of the child, shall specify whether a certificated person will be supervising the instruction, and shall be written in a format prescribed by the superintendent of public instruction. Each parent shall file the statement by September 15 of the school year or within two weeks of the beginning of any public school quarter, trimester, or semester with the superintendent of the public school district within which the parent resides;

(2) Ensure that test scores or annual academic progress assessments and immunization records, together with any other records that are kept relating to the instructional and educational activities provided, are forwarded to any other public or private school to which the child transfers. At the time of a transfer to a public school, the superintendent of the local school district in which the child enrolls may require a standardized achievement test to be administered and shall have the authority to determine the appropriate grade and course level placement of the child after consultation with parents and review of the child's records; and

(3) Ensure that a standardized achievement test approved by the state board of education is administered annually to the child by a qualified individual or that an annual assessment of the student's academic progress is written by a certificated person who is currently working in the field of education. The standardized test administered or the annual academic progress assessment written shall be made a part of the child's permanent records. If, as a result of the annual test or assessment, it is determined that the child is not making reasonable progress consistent with his or her age or stage of development, the parent shall make a good faith effort to remedy any deficiency.

Failure of a parent to comply with the duties in this section shall be deemed a failure of such parent's child to attend school without valid justification under RCW ((~~28A.27.020~~) 28A.225.020). Parents who do comply with the duties set forth in this section shall be presumed to be providing home-based instruction as set forth in RCW ((~~28A.27.010(4)~~) 28A.225.010(4)).

Sec. 179. Section 3, chapter 441, Laws of 1985 and RCW 28A.27.320 are each amended to read as follows:

The state hereby recognizes that parents who are causing their children to receive home-based instruction under RCW ((~~28A.27.010(4)~~) 28A.225.010(4)) shall be subject only to those minimum state laws and regulations which are necessary to insure that a sufficient basic educational

opportunity is provided to the children receiving such instruction. Therefore, all decisions relating to philosophy or doctrine, selection of books, teaching materials and curriculum, and methods, timing, and place in the provision or evaluation of home-based instruction shall be the responsibility of the parent except for matters specifically referred to in this chapter.

12. Educational Clinics

Sec. 180. Section 1, chapter 341, Laws of 1977 ex. sess. as amended by section 38, chapter 3, Laws of 1983 and RCW 28A.97.010 are each amended to read as follows:

(1) As used in this chapter, unless the context thereof shall clearly indicate to the contrary:

Educational clinic means any private school operated on a profit or nonprofit basis which does the following:

(a) Is devoted to the teaching of basic academic skills, including specific attention to improvement of student motivation for achieving, and employment orientation.

(b) Operates on a clinical, client centered basis. This shall include, but not be limited to, performing diagnosis of individual educational abilities, determination and setting of individual goals, prescribing and providing individual courses of instruction therefor, and evaluation of each individual client's progress in his or her educational program.

(c) Conducts courses of instruction by professionally trained personnel certificated by the state board of education according to rules and regulations promulgated for the purposes of this chapter and providing, for certification purposes, that a year's teaching experience in an educational clinic shall be deemed equal to a year's teaching experience in a common or private school.

(2) For purposes of this chapter, basic academic skills shall include the study of mathematics, speech, language, reading and composition, science, history, literature and political science or civics; it shall not include courses of a vocational training nature and shall not include courses deemed nonessential to the accrediting of the common schools or the approval of private schools under RCW (~~(28A.04.120)~~) 28A.305.130.

(3) The state board of education shall certify an education clinic only upon application and (a) determination that such school comes within the definition thereof as set forth in subsection (1) above and (b) demonstration on the basis of actual educational performance of such applicants' students which shows after consideration of their students' backgrounds, educational gains that are a direct result of the applicants' educational program. Such certification may be withdrawn if the board finds that a clinic fails to provide adequate instruction in basic academic skills. No educational clinic certified by the state board of education pursuant to this section shall be deemed a common school under RCW (~~(28A.01.060)~~) 28A.150.020 or a

private school for the purposes of RCW (~~28A.02.201 through 28A.02-.250~~) 28A.195.010 through 28A.195.050.

Sec. 181. Section 2, chapter 341, Laws of 1977 ex. sess. as amended by section 1, chapter 174, Laws of 1979 ex. sess. and RCW 28A.97.020 are each amended to read as follows:

Only eligible common school dropouts shall be enrolled in a certified educational clinic for reimbursement by the superintendent of public instruction as provided in RCW (~~28A.97.040~~) 28A.205.040. No person shall be considered an eligible common school dropout who (1) has completed high school, (2) who has not reached his or her thirteenth birthday or has passed his or her twentieth birthday, or (3) shows proficiency beyond the high school level in a test approved by the superintendent of public instruction to be given as part of the initial diagnostic procedure, or (4) until one month has passed after he or she has dropped out of any common school and the educational clinic has received written verification from a school official of the common school last attended in this state that such person is no longer in attendance at such school, unless such clinic has been requested to admit such person by written communication of the board of directors or its designee, of that common school, or unless such person is unable to attend a particular common school because of disciplinary reasons, including suspension and/or expulsion therefrom. The fact that any person may be subject to (~~chapter 28A.27~~) RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020 shall not affect his or her qualifications as an eligible common school dropout under this chapter.

Sec. 182. Section 3, chapter 341, Laws of 1977 ex. sess. and RCW 28A.97.030 are each amended to read as follows:

The superintendent of public instruction shall adopt, by rules, policies and procedures to permit a prior common school dropout to reenter at the grade level appropriate to such individual's ability: PROVIDED, That such individual shall be placed with the class he or she would be in had he or she not dropped out and graduate with that class, if (~~his~~) the student's ability so permits notwithstanding any loss of credits prior to reentry and if such student earns credits at the normal rate subsequent to reentry.

Notwithstanding any other provision of law, any certified educational clinic student, upon completion of an individual student program and irrespective of age, shall be eligible to take the general educational development test as given throughout the state.

Sec. 183. Section 4, chapter 341, Laws of 1977 ex. sess. as amended by section 2, chapter 174, Laws of 1979 ex. sess. and RCW 28A.97.040 are each amended to read as follows:

From funds appropriated for that purpose, the superintendent of public instruction shall pay to a certified clinic on a monthly basis for each student

enrolled in compliance with RCW (~~(28A.97.026)~~) 28A.205.020, fees in accordance with the following conditions:

(1) (a) The fee for the initial diagnostic procedure shall be not more than fifty dollars per student, and hourly fees for each student shall be sixteen dollars if the class size is no greater than one, ten dollars if the class size is at least two and no greater than five, and five dollars if the class size is at least six: **PROVIDED**, That revisions in such fees proposed by an education clinic shall become effective after thirty days notice unless the superintendent finds such a revision is unreasonable in which case the revision shall not take effect: **PROVIDED FURTHER**, That an education clinic may, within fifteen days after such a finding by the superintendent, file notification of appeal with the state board of education which shall, no later than its second regularly scheduled meeting following notification of such appeal, either grant or deny the proposed revision: **AND PROVIDED FURTHER**, That the administration of any general education development test shall not be a part of such initial diagnostic procedure.

(b) Reimbursements shall not be made for students who are absent.

(c) No clinic shall make any charge to any student, or ~~((his))~~ the student's parent, guardian or custodian, for whom a fee is being received under the provisions of this section.

(2) Payments shall be made from available funds first to those clinic(s) which have in the judgment of the superintendent demonstrated superior performance based upon consideration of students' educational gains taking into account such students' backgrounds, and upon consideration of cost effectiveness. In considering the cost effectiveness of nonprofit clinics the superintendent shall take into account not only payments made under this section but also factors such as tax exemptions, direct and indirect subsidies or any other cost to taxpayers at any level of government which result from such nonprofit status.

(3) To be eligible for such payment, every such clinic, without prior notice, shall permit a review of its accounting records by personnel of the state auditor during normal business hours.

(4) If total funds for this purpose approach depletion, the superintendent shall notify the clinics of the date after which further funds for reimbursement of the clinics' services will be exhausted.

Sec. 184. Section 5, chapter 341, Laws of 1977 ex. sess. and RCW 28A.97.050 are each amended to read as follows:

In accordance with chapter 34.05 RCW, the administrative procedure act, the state board of education with respect to the matter of certification, and the superintendent of public instruction with respect to all other matters, shall have the power and duty to make the necessary rules and regulations to carry out the purpose and intent of this chapter.

Criteria as promulgated by the state board of education or superintendent of public instruction for determining if any educational clinic is

providing adequate instruction in basic academic skills or demonstrating superior performance in student educational gains for funding under RCW ((28A.97.040)) 28A.205.040 shall be subject to review by four members of the legislature, one from each caucus of each house, including the ((chairpersons)) chairs of the respective education committees.

Sec. 185. Section 3, chapter 434, Laws of 1985 and RCW 28A.97.120 are each amended to read as follows:

In allocating funds appropriated for educational clinics, the superintendent of public instruction shall:

(1) Place priority upon stability and adequacy of funding for educational clinics that have demonstrated superior performance as defined in RCW ((28A.97.040(2))) 28A.205.040(2).

(2) Initiate and maintain a competitive review process to select new or expanded clinic programs in unserved or underserved areas. The criteria for review of competitive proposals for new or expanded education clinic services shall include but not be limited to:

(a) The proposing organization shall have obtained certification from the state board of education as provided in RCW ((28A.97.010)) 28A.205.010;

(b) The cost-effectiveness of the proposal as judged by the criteria established in RCW 28A.97.100(1) and (2); and

(c) The availability of committed nonstate funds to support, enrich, or otherwise enhance the basic program.

(3) In selecting areas for new or expanded educational clinics programs, the superintendent of public instruction shall consider factors including but not limited to:

(a) The proportion and total number of dropouts unserved by existing clinics programs, if any;

(b) The availability within the geographic area of programs other than educational clinics which address the basic educational needs of dropouts; and

(c) Waiting lists or other evidence of demand for expanded educational clinic programs.

(4) In the event of any curtailment of services resulting from lowered legislative appropriations, the superintendent of public instruction shall issue pro rata reductions to all clinics funded at the time of the lowered appropriation. Individual clinics may be exempted from such pro rata reductions if the superintendent finds that such reductions would impair the clinic's ability to operate at minimally acceptable levels of service. In the event of such exceptions, the superintendent shall determine an appropriate rate for reduction to permit the clinic to continue operation.

(5) In the event that an additional clinic or clinics become certified and apply to the superintendent for funds to be allocated from a legislative appropriation which does not increase from the immediately preceding biennium, or does not increase sufficiently to allow such additional clinic or clinics to operate at minimally acceptable levels of service without reducing the funds available to previously funded clinics, the superintendent shall not provide funding for such additional clinic or clinics from such appropriation.

Sec. 186. Section 220, chapter 518, Laws of 1987 and RCW 28A.97-.125 are each amended to read as follows:

The legislature recognizes that educational clinics provide a necessary and effective service for students who have dropped out of common school programs. Educational clinics have demonstrated success in preparing such youth for productive roles in society and are an integral part of the state's program to address the needs of students who have dropped out of school. The superintendent of public instruction shall distribute funds, consistent with legislative appropriations, allocated specifically for educational clinics in accord with chapter ((28A.97)) 28A.205 RCW. The legislature encourages school districts to explore cooperation with educational clinics.

Sec. 187. Section 4, chapter 434, Laws of 1985 and RCW 28A.97.130 are each amended to read as follows:

The superintendent shall include the educational clinics program in the biennial budget request. Contracts between the superintendent of public instruction and the educational clinics shall include quarterly plans which provide for relatively stable student enrollment but take into consideration anticipated seasonal variations in enrollment in the individual clinics. Funds which are not expended by a clinic during the quarter for which they were planned may be carried forward to subsequent quarters of the fiscal year. The superintendent shall make payments to the clinics on a monthly basis pursuant to RCW ((28A.97.040)) 28A.205.040.

13. Health—Screening and Requirements

Sec. 188. Section 28A.31.040, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 32, Laws of 1971 and RCW 28A.31.040 are each amended to read as follows:

The person or persons completing the screening prescribed in RCW ((28A.31.030)) 28A.210.020 shall promptly prepare a record of the screening of each child found to have, or suspected of having, reduced visual and/or auditory acuity in need of attention, including the special education services provided by ((chapter 28A.13)) RCW 28A.155.010 through 28A.155.100, and send copies of such records and recommendations to the parents or guardians of such children and shall deliver the original records to the appropriate school official who shall preserve such records and forward to the superintendent of public instruction and the secretary of social and health services visual and auditory data as requested by such officials.

Sec. 189. Section 1, chapter 46, Laws of 1973 and RCW 28A.31.050 are each amended to read as follows:

The superintendent of public instruction shall print and distribute to appropriate school officials the rules and regulations adopted by the state board of health pursuant to RCW (~~(28A.31.030)~~) 28A.210.020 and the recommended records and forms to be used in making and reporting such screenings.

Sec. 190. Section 1, chapter 118, Laws of 1979 ex. sess. as amended by section 3, chapter 40, Laws of 1984 and RCW 28A.31.100 are each amended to read as follows:

In enacting RCW (~~(28A.31.100 through 28A.31.120)~~) 28A.210.060 through 28A.210.170, it is the judgment of the legislature that it is necessary to protect the health of the public and individuals by providing a means for the eventual achievement of full immunization of school-age children against certain vaccine-preventable diseases.

Sec. 191. Section 2, chapter 118, Laws of 1979 ex. sess. as last amended by section 2, chapter 49, Laws of 1985 and RCW 28A.31.102 are each amended to read as follows:

As used in RCW (~~(28A.31.100 through 28A.31.120)~~) 28A.210.060 through 28A.210.170:

(1) "Chief administrator" shall mean the person with the authority and responsibility for the immediate supervision of the operation of a school or day care center as defined in this section or, in the alternative, such other person as may hereafter be designated in writing for the purposes of RCW (~~(28A.31.100 through 28A.31.120)~~) 28A.210.060 through 28A.210.170 by the statutory or corporate board of directors of the school district, school, or day care center or, if none, such other persons or person with the authority and responsibility for the general supervision of the operation of the school district, school or day care center.

(2) "Full immunization" shall mean immunization against certain vaccine-preventable diseases in accordance with schedules and with immunizing agents approved by the state board of health.

(3) "Local health department" shall mean the city, town, county, district or combined city-county health department, board of health, or health officer which provides public health services.

(4) "School" shall mean and include each building, facility, and location at or within which any or all portions of a preschool, kindergarten and grades one through twelve program of education and related activities are conducted for two or more children by or in behalf of any public school district and by or in behalf of any private school or private institution subject to approval by the state board of education pursuant to RCW (~~(28A.04.120(4) and 28A.02.201 through 28A.02.260, each as now or hereafter amended)~~) 28A.305.130(6), 28A.195.010 through 28A.195.050, and 28A.410.120.

(5) "Day care center" shall mean an agency which regularly provides care for a group of thirteen or more children for periods of less than twenty-four hours and is licensed pursuant to chapter 74.15 RCW.

(6) "Child" shall mean any person, regardless of age, in attendance at a public or private school or a licensed day care center.

Sec. 192. Section 3, chapter 118, Laws of 1979 ex. sess. as amended by section 1, chapter 49, Laws of 1985 and RCW 28A.31.104 are each amended to read as follows:

The attendance of every child at every public and private school in the state and licensed day care center shall be conditioned upon the presentation before or on each child's first day of attendance at a particular school or center, of proof of either (1) full immunization, (2) the initiation of and compliance with a schedule of immunization, as required by rules of the state board of health, or (3) a certificate of exemption as provided for in RCW (~~(28A.31.106)~~) 28A.210.090. The attendance at the school or the day care center during any subsequent school year of a child who has initiated a schedule of immunization shall be conditioned upon the presentation of proof of compliance with the schedule on the child's first day of attendance during the subsequent school year. Once proof of full immunization or proof of completion of an approved schedule has been presented, no further proof shall be required as a condition to attendance at the particular school or center.

Sec. 193. Section 4, chapter 118, Laws of 1979 ex. sess. as amended by section 5, chapter 40, Laws of 1984 and RCW 28A.31.106 are each amended to read as follows:

Any child shall be exempt in whole or in part from the immunization measures required by RCW (~~(28A.31.100 through 28A.31.120)~~) 28A.210.060 through 28A.210.170 upon the presentation of any one or more of the following, on a form prescribed by the department of social and health services:

(1) A written certification signed by any physician licensed to practice medicine pursuant to chapter 18.71 or 18.57 RCW that a particular vaccine required by rule of the state board of health is, in his or her judgment, not advisable for the child; PROVIDED, That when it is determined that this particular vaccine is no longer contraindicated, the child will be required to have the vaccine;

(2) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the religious beliefs of the signator are contrary to the required immunization measures; and

(3) A written certification signed by any parent or legal guardian of the child or any adult in loco parentis to the child that the signator has either a philosophical or personal objection to the immunization of the child.

Sec. 194. Section 6, chapter 118, Laws of 1979 ex. sess. as amended by section 7, chapter 40, Laws of 1984 and RCW 28A.31.110 are each amended to read as follows:

The immunizations required by RCW (~~(28A.31.100 through 28A.31.120)~~ 28A.210.060 through 28A.210.170) may be obtained from any private or public source desired: PROVIDED, That the immunization is administered and records are made in accordance with the regulations of the state board of health. Any person or organization administering immunizations shall furnish each person immunized, or his or her parent or legal guardian, or any adult in loco parentis to the child, with a written record of immunization given in a form prescribed by the state board of health.

Sec. 195. Section 7, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.112 are each amended to read as follows:

A child's proof of immunization or certification of exemption shall be presented to the chief administrator of the public or private school or day care center or to his or her designee for that purpose. The chief administrator shall:

(1) Retain such records pertaining to each child at the school or day care center for at least the period the child is enrolled in the school or attends such center;

(2) Retain a record at the school or day care center of the name, address, and date of exclusion of each child excluded from school or the center pursuant to RCW (~~(28A.31.114)~~ 28A.210.120) for not less than three years following the date of a child's exclusion;

(3) File a written annual report with the department of social and health services on the immunization status of students or children attending the day care center at a time and on forms prescribed by the department of social and health services; and

(4) Allow agents of state and local health departments access to the records retained in accordance with this section during business hours for the purposes of inspection and copying.

Sec. 196. Section 8, chapter 118, Laws of 1979 ex. sess. as last amended by section 3, chapter 49, Laws of 1985 and RCW 28A.31.114 are each amended to read as follows:

It shall be the duty of the chief administrator of every public and private school and day care center to prohibit the further presence at the school or day care center for any and all purposes of each child for whom proof of immunization, certification of exemption, or proof of compliance with an approved schedule of immunization has not been provided in accordance with RCW (~~(28A.31.104)~~ 28A.210.080) and to continue to prohibit the child's presence until such proof of immunization, certification of exemption, or approved schedule has been provided. The exclusion of a child from a school shall be accomplished in accordance with rules of the state board of education. The exclusion of a child from a day care center shall be

accomplished in accordance with rules of the department of social and health services. Prior to the exclusion of a child, each school or day care center shall provide written notice to the parent(s) or legal guardian(s) of each child or to the adult(s) in loco parentis to each child, who is not in compliance with the requirements of RCW (~~((28A.31.104))~~) 28A.210.080. The notice shall fully inform such person(s) of the following: (1) The requirements established by and pursuant to RCW (~~((28A.31.100 through 28A.31.120))~~) 28A.210.060 through 28A.210.170; (2) the fact that the child will be prohibited from further attendance at the school unless RCW (~~((28A.31.104))~~) 28A.210.080 is complied with; (3) such procedural due process rights as are hereafter established pursuant to RCW (~~((28A.31.118))~~) 28A.210.160 and/or (~~((28A.31.120))~~) 28A.210.170, as appropriate; and (4) the immunization services that are available from or through the local health department and other public agencies.

Sec. 197. Section 4, chapter 49, Laws of 1985 and RCW 28A.31.115 are each amended to read as follows:

The superintendent of public instruction shall provide for information about the immunization program and requirements under RCW (~~((28A.31.100 through 28A.31.120))~~) 28A.210.060 through 28A.210.170 to be widely available throughout the state in order to promote full use of the program.

Sec. 198. Section 9, chapter 118, Laws of 1979 ex. sess. as amended by section 9, chapter 40, Laws of 1984 and RCW 28A.31.116 are each amended to read as follows:

The state board of health shall adopt and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive requirements for full immunization and the form and substance of the proof thereof, to be required pursuant to RCW (~~((28A.31.100 through 28A.31.120))~~) 28A.210.060 through 28A.210.170.

Sec. 199. Section 10, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.118 are each amended to read as follows:

The state board of education shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from public and private schools pursuant to RCW (~~((28A.31.114))~~) 28A.210.120.

Sec. 200. Section 11, chapter 118, Laws of 1979 ex. sess. and RCW 28A.31.120 are each amended to read as follows:

The department of social and health services shall and is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish the procedural and substantive due process requirements governing the exclusion of children from day care centers pursuant to RCW (~~((28A.31.114))~~) 28A.210.120.

Sec. 201. Section 1, chapter 47, Laws of 1979 as amended by section 1, chapter 216, Laws of 1985 and RCW 28A.31.130 are each amended to read as follows:

The legislature recognizes that the condition known as scoliosis, a lateral curvature of the spine commonly appearing in adolescents, can develop into a permanent, crippling disability if left untreated. Early diagnosis and referral can often result in the successful treatment of this condition and greatly reduce the need for major surgery. Therefore, the purpose of RCW (~~28A.31.130 through 28A.31.142~~) 28A.210.180 through 28A.210.250 is to recognize that a school screening program is an invaluable tool for detecting the number of adolescents with scoliosis. It is the intent of the legislature to insure that the superintendent of public instruction provide and require screening for the condition known as scoliosis of all children in the highest risk age group, grades 5 through 10, to ascertain which, if any, of these children have defects requiring corrective treatment.

Sec. 202. Section 2, chapter 47, Laws of 1979 as amended by section 2, chapter 216, Laws of 1985 and RCW 28A.31.132 are each amended to read as follows:

As used in RCW (~~28A.31.130 through 28A.31.142~~) 28A.210.180 through 28A.210.250, the following terms have the meanings indicated.

(1) "Superintendent" means the superintendent of public instruction of public schools in the state, or (~~his~~) the superintendent's designee.

(2) "Pupil" means a student enrolled in the public school system in the state.

(3) "Scoliosis" includes idiopathic scoliosis and kyphosis.

(4) "Screening" means an examination to be performed on all pupils in grades 5 through 10 for the purpose of detecting the condition known as scoliosis, except as provided in RCW (~~28A.31.139~~) 28A.210.230.

(5) "Public schools" means the common schools referred to in Article IX of the state Constitution and those schools and institutions of learning having a curriculum below the college or university level as now or may be established by law and maintained at public expense.

Sec. 203. Section 3, chapter 47, Laws of 1979 as amended by section 3, chapter 216, Laws of 1985 and RCW 28A.31.134 are each amended to read as follows:

The superintendent shall provide for and require the yearly examination of all children attending public schools in grades 5 through 10, except as provided in RCW (~~28A.31.139~~) 28A.210.230, in accordance with procedures and standards adopted by rule of the state board of health in cooperation with the superintendent of public instruction. The examination shall be made by a school physician, school nurse, qualified licensed health practitioner, or physical education instructor or by other school personnel. Proper training of the personnel in the screening process for scoliosis shall be provided by the superintendent.

Sec. 204. Section 4, chapter 47, Laws of 1979 as amended by section 4, chapter 216, Laws of 1985 and RCW 28A.31.136 are each amended to read as follows:

Every person performing the screening under RCW (~~28A.31.134~~) 28A.210.200 shall promptly prepare a record of the screening of each child found to have or suspected of having scoliosis and shall send copies of the records to the parents or guardians of the children. The notification shall include an explanation of scoliosis, the significance of treating it at an early stage, and the services generally available from a qualified licensed health practitioner for the treatment after diagnosis.

Sec. 205. Section 5, chapter 47, Laws of 1979 and RCW 28A.31.138 are each amended to read as follows:

The superintendent shall print and distribute to appropriate school officials the rules adopted by the state board of health in cooperation with the superintendent of public instruction under RCW (~~28A.31.134~~) 28A.210.200 and the recommended records and forms to be used in making and reporting the screenings.

Sec. 206. Section 6, chapter 216, Laws of 1985 and RCW 28A.31.139 are each amended to read as follows:

After July 1, 1987, the superintendent of public instruction may waive screening for scoliosis for grades 9 and/or 10, notwithstanding RCW (~~28A.31.132(4) and 28A.31.134~~) 28A.210.190(4) and 28A.210.200, after conducting a cost/benefit analysis of such screening for school years 1985-86 and 1986-87.

Sec. 207. Section 7, chapter 47, Laws of 1979 and RCW 28A.31.142 are each amended to read as follows:

The superintendent may establish appropriate sanctions to be applied to any school officials of the state failing to comply with RCW (~~28A.31.134 through 28A.31.140~~) 28A.210.200 through 28A.210.240 which sanctions may include withholding of any portion of state aid to the district until such time as compliance is assured.

Sec. 208. Section 2, chapter 195, Laws of 1982 and RCW 28A.31.155 are each amended to read as follows:

(1) In the event a school employee administers oral medication to a student pursuant to RCW (~~28A.31.150~~) 28A.210.260 in substantial compliance with the prescription of the student's physician or dentist or the written instructions provided pursuant to RCW (~~28A.31.150(4)~~) 28A.210.260(4), and the other conditions set forth in RCW (~~28A.31.150~~) 28A.210.260 have been substantially complied with, 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 or marital or governmental or corporate or other capacities as a result of the administration of the medication.

(2) The administration of oral medication to any student pursuant to RCW ((28A.31.150)) 28A.210.260 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 governmental or corporate or individual or marital or other capacities as a result of the discontinuance of such administration: 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.

Sec. 209. Section 3, chapter 48, Laws of 1988 and RCW 28A.31.165 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 and ((28A.31.160)) 28A.210.280 in substantial compliance with (a) rules adopted by the state board of nursing and the instructions of a registered nurse issued under such rules, and (b) written policies of the school district or private school, then the employee, the employee's school district or school of employment, and the members of the governing board and chief administrator thereof shall not be liable in any criminal action or for civil damages in their individual, marital, governmental, corporate, or other capacity as a result of providing for the catheterization.

(2) Providing for the catheterization of any student pursuant to RCW 18.88.295 and ((28A.31.160)) 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.

14. Early Childhood Education, Preschools, and Before-and-After School Care

A. Nursery Schools, Preschools, and Before-and-After School Care

Sec. 210. Section 28A.34.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.34.020 are each amended to read as follows:

Expenditures under federal funds and/or state appropriations made to carry out the purposes of ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 shall be made by warrants issued by the state treasurer upon order of the superintendent of public instruction. The state board of education shall make necessary rules and regulations to carry out the purpose of RCW ~~((28A.34.010))~~ 28A.215.010.

Sec. 211. Section 28A.34.040, chapter 223, Laws of 1969 ex. sess. and RCW 28A.34.040 are each amended to read as follows:

In the event the legislature appropriates any moneys to carry out the purposes of ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330, allocations therefrom may be made to school districts for the purpose of underwriting allocations made or requested from federal funds until such federal funds are available. Any school district may allocate a portion of its funds for the purpose of carrying out the provisions of ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 pending the receipt of reimbursement from funds made available by acts of congress.

Sec. 212. Section 1, chapter 487, Laws of 1987 and RCW 28A.34.150 are each amended to read as follows:

As a supplement to the authority otherwise granted by ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330 respecting the care or instruction, or both, of children in general, the board of directors of any school district may only utilize funds outside the state basic education appropriation and the state school transportation appropriation to:

(1) Contract with public and private entities to conduct all or any portion of the management and operation of a child care program at a school district site or elsewhere;

(2) Establish charges based upon costs incurred under this section and provide for the reduction or waiver of charges in individual cases based upon the financial ability of the parents or legal guardians of enrolled children to pay the charges, or upon their provision of other valuable consideration to the school district; and

(3) Transport children enrolled in a child care program to the program and to related sites using district-owned school buses and other motor vehicles, or by contracting for such transportation and related services: PROVIDED, That no child three years of age or younger shall be transported under the provisions of this section unless accompanied by a parent or guardian.

B. Early Childhood Assistance Program

Sec. 213. Section 2, chapter 418, Laws of 1985 as amended by section 2, chapter 174, Laws of 1988 and RCW 28A.34A.020 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout ~~((this chapter))~~ RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908.

(1) "Advisory committee" means the advisory committee under RCW ~~((28A.34A.050))~~ 28A.215.140.

(2) "At risk" means a child not eligible for kindergarten whose family circumstances would qualify that child for eligibility under the federal head start program.

(3) "Department" means the department of community development.

(4) "Eligible child" means an at-risk child as defined in this section who is not a participant in a federal or state program providing like educational services and may include children who are eligible under rules adopted by the department if the number of such children equals not more than ten percent of the total enrollment in the preschool program.

(5) "Approved preschool programs" means those state-supported education and special assistance programs which are recognized by the department of community development as meeting the minimum program rules adopted by the department to qualify under ~~((this chapter))~~ RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908 and are designated as eligible for funding by the department under RCW ~~((28A.34A.070 and 28A.34A.090))~~ 28A.215.160 and 28A.215.180.

Sec. 214. Section 9, chapter 418, Laws of 1985 as amended by section 102, chapter 518, Laws of 1987 and RCW 28A.34A.090 are each amended to read as follows:

For the purposes of ~~((this chapter))~~ RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, the department may award state support under RCW ~~((28A.34A.010 through 28A.34A.070))~~ 28A.215.100 through 28A.215.160 to increase the numbers of eligible children assisted by the federal or state-supported preschool programs in this state by up to five thousand additional children. Priority shall be given to groups in those geographical areas which include a high percentage of families qualifying under the federal "at risk" criteria. The overall program funding level shall be based on an average grant per child consistent with state appropriations made for program costs: PROVIDED, That programs addressing special needs of selected groups or communities shall be recognized in the department's rules.

Sec. 215. Section 11, chapter 418, Laws of 1985 as amended by section 9, chapter 174, Laws of 1988 and RCW 28A.34A.110 are each amended to read as follows:

The department may solicit gifts, grants, conveyances, bequests and devises for the use or benefit of the preschool state education and assistance

program established by ~~((this chapter))~~ RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908. The department shall actively solicit support from business and industry and from the federal government for the preschool state education and assistance program and shall assist local programs in developing partnerships with the community for children-at-risk.

C. Voluntary Accreditation of Preschools

Sec. 216. Section 2, chapter 150, Laws of 1986 and RCW 28A.34.110 are each amended to read as follows:

Unless the context clearly indicates otherwise, the definition used in this section shall apply throughout ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330.

"Preschool" means educational programs that emphasize readiness skills and that enroll children of preschool age on a regular basis for four hours per day or less.

Sec. 217. Section 4, chapter 150, Laws of 1986 and RCW 28A.34.130 are each amended to read as follows:

No public or nonpublic entity may advertise that it has an accredited preschool unless its educational program has been accredited under ~~((this chapter))~~ RCW 28A.215.010 through 28A.215.050 and 28A.215.300 through 28A.215.330. Any person with a pecuniary interest in the operation of a preschool who intentionally and falsely advertises that such preschool is accredited by the state board of education shall be guilty of a misdemeanor, the fine for which shall be no more than one hundred dollars. Each day that the violation continues shall be considered a separate violation.

15. Traffic Safety

Sec. 218. Section 2, chapter 39, Laws of 1963 as last amended by section 195, chapter 158, Laws of 1979 and RCW 28A.08.010 are each amended to read as follows:

The following words and phrases whenever used in chapter ~~((46.81))~~ 28A.220 RCW shall have the following meaning:

(1) "Superintendent" or "state superintendent" shall mean the superintendent of public instruction.

(2) "Traffic safety education course" shall mean an accredited course of instruction in traffic safety education which shall consist of two phases, classroom instruction, and laboratory experience. "Laboratory experience" shall include on-street, driving range, or simulator experience or some combination thereof. Each phase shall meet basic course requirements which shall be established by the superintendent of public instruction and each part of said course shall be taught by a qualified teacher of traffic safety education. Any portions of the course may be taught after regular school hours or on Saturdays as well as on regular school days or as a summer school course, at the option of the local school districts.

(3) "Qualified teacher of traffic safety education" shall mean an instructor certificated under the provisions of chapter ~~((28A.70))~~ 28A.410 RCW and certificated by the superintendent of public instruction to teach either the classroom phase or the laboratory phase of the traffic safety education course, or both, under regulations promulgated by the superintendent: PROVIDED, That the laboratory experience phase of the traffic safety education course may be taught by instructors certificated under rules promulgated by the superintendent of public instruction, exclusive of any requirement that the instructor be certificated under the provisions of chapter ~~((28A.70))~~ 28A.410 RCW. Professional instructors certificated under the provisions of chapter 46.82 RCW, and participating in this program, shall be subject to reasonable qualification requirements jointly adopted by the superintendent of public instruction and the director of licensing.

(4) "Realistic level of effort" means the classroom and laboratory student learning experiences considered acceptable to the superintendent of public instruction that must be satisfactorily accomplished by the student in order to successfully complete the traffic safety education course.

16. Compulsory School Attendance and Admission

Sec. 219. Section 2, chapter 10, Laws of 1972 ex. sess. as last amended by section 1, chapter 132, Laws of 1986 and RCW 28A.27.010 are each amended to read as follows:

(1) All parents in this state of any child eight years of age and under eighteen years of age shall cause such child to attend the public school of the district in which the child resides and such child shall have the responsibility to and therefore shall attend for the full time when such school may be in session unless:

(a) The child is attending an approved private school for the same time or is enrolled in an extension program as provided in RCW ~~((28A.02.201(4)))~~ 28A.195.010(4);

(b) The child is receiving home-based instruction as provided in subsection (4) of this section; or

(c) The school district superintendent of the district in which the child resides shall have excused such child from attendance because the child is physically or mentally unable to attend school, is attending a residential school operated by the department of social and health services, or has been temporarily excused upon the request of his or her parents for purposes agreed upon by the school authorities and the parent: PROVIDED, That such excused absences shall not be permitted if deemed to cause a serious adverse effect upon the student's educational progress: PROVIDED FURTHER, That students excused for such temporary absences may be claimed as full time equivalent students to the extent they would otherwise have been so claimed for the purposes of RCW ~~((28A.41.130 and 28A.41.140, as now or hereafter amended,))~~ 28A.150.250 and 28A.150.260 and shall not

affect school district compliance with the provisions of RCW (~~(28A.58.754; as now or hereafter amended)~~) 28A.150.220;

(d) The child is fifteen years of age or older and:

(i) The school district superintendent determines that such child has already attained a reasonable proficiency in the branches required by law to be taught in the first nine grades of the public schools of this state;

(ii) The child is regularly and lawfully engaged in a useful or remunerative occupation;

(iii) The child has already met graduation requirements in accordance with state board of education rules and regulations; or

(iv) The child has received a certificate of educational competence under rules and regulations established by the state board of education under RCW (~~(28A.04.135)~~) 28A.305.190.

(2) A parent for the purpose of this chapter means a parent, guardian, or person having legal custody of a child.

(3) An approved private school for the purposes of this chapter and chapter 28A.200 RCW shall be one approved under regulations established by the state board of education pursuant to RCW (~~(28A.04.120 as now or hereafter amended)~~) 28A.305.130.

(4) For the purposes of this chapter and chapter 28A.200 RCW, instruction shall be home-based if it consists of planned and supervised instructional and related educational activities, including a curriculum and instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of an appreciation of art and music, provided for a number of hours equivalent to the total annual program hours per grade level established for approved private schools under RCW (~~(28A.02.201 and 28A.02.240)~~) 28A.195.010 and 28A.195.040 and if such activities are:

(a) Provided by a parent who is instructing his or her child only and are supervised by a certificated person. A certificated person for purposes of this chapter and chapter 28A.200 RCW shall be a person certified under chapter (~~(28A.70)~~) 28A.410 RCW. For purposes of this section, "supervised by a certificated person" means: The planning by the certificated person and the parent of objectives consistent with this subsection; a minimum each month of an average of one contact hour per week with the child being supervised by the certificated person; and evaluation of such child's progress by the certificated person. The number of children supervised by the certificated person shall not exceed thirty for purposes of this subsection; or

(b) Provided by a parent who is instructing his or her child only and who has either earned forty-five college level quarter credit hours or its equivalent in semester hours or has completed a course in home-based instruction at a postsecondary institution or a vocational-technical institute; or

(c) Provided by a parent who is deemed sufficiently qualified to provide home-based instruction by the superintendent of the local school district in which the child resides.

(5) The legislature recognizes that home-based instruction is less structured and more experiential than the instruction normally provided in a classroom setting. Therefore, the provisions of subsection (4) of this section relating to the nature and quantity of instructional and related educational activities shall be liberally construed.

Sec. 220. Section 2, chapter 201, Laws of 1979 ex. sess. as amended by section 3, chapter 132, Laws of 1986 and RCW 28A.27.022 are each amended to read as follows:

If action taken by a school pursuant to RCW (~~(28A.27.020)~~) 28A.225.020 is not successful in substantially reducing a student's absences from school, any of the following actions may be taken: (1) The attendance officer of the school district through its attorney may petition the juvenile court to assume jurisdiction under (~~(this chapter)~~) RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150 for the purpose of alleging a violation of RCW (~~(28A.27.010)~~) 28A.225.010 by the parent; or (2) a petition alleging a violation of RCW (~~(28A.27.010)~~) 28A.225.010 by a child may be filed with the juvenile court by the parent of such child or by the attendance officer of the school district through its attorney at the request of the parent. If the court assumes jurisdiction in such an instance, the provisions of (~~(this chapter)~~) RCW 28A.200.010, 28A.200.020, and 28A.225.010 through 28A.225.150, except where otherwise stated, shall apply.

Sec. 221. Section 28A.27.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.030 are each amended to read as follows:

It shall be the duty of the school district superintendent, at the beginning of each school year, to provide each teacher with a copy of that portion of the last census of school children taken in his or her school district which would be pertinent to the grade or grades such teacher is instructing and it shall be the duty of every teacher to report to the proper attendance officer, all cases of truancy or incorrigibility in his or her school, immediately after the offense or offenses shall have been committed: PROVIDED, That if there (~~(be)~~) is a principal the report by the teacher shall be made to (~~(him)~~) the principal and by (~~(him)~~) the principal transmitted to the attendance officer: PROVIDED FURTHER, That if there (~~(be)~~) is a city superintendent, the principal shall transmit such report to said city superintendent, who shall transmit such report to the proper attendance officer of his or her district.

Sec. 222. Section 28A.27.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 4, chapter 132, Laws of 1986 and RCW 28A.27-.040 are each amended to read as follows:

To aid in the enforcement of RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, attendance officers shall be appointed and employed as follows: In incorporated city districts the board of directors shall annually appoint one or more attendance officers. In all other districts the educational service district superintendent shall appoint one or more attendance officers or may act as such himself or herself.

The compensation of attendance officer in city districts shall be fixed and paid by the board appointing him or her. The compensation of attendance officers when appointed by the educational service district superintendents shall be paid by the respective districts. An educational service district superintendent shall receive no extra compensation if acting as attendance officer.

Any sheriff, constable, city marshal or regularly appointed (~~police-man~~) police officer may be appointed attendance officer.

The attendance officer shall be vested with police powers, the authority to make arrests and serve all legal processes contemplated by RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, and shall have authority to enter all places in which children may be employed, for the purpose of making such investigations as may be necessary for the enforcement of RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140. The attendance officer is authorized to take into custody the person of any child eight years of age and not over fourteen years of age, who may be a truant from school, and to conduct such child to his or her parents, for investigation and explanation, or to the school which he or she should properly attend. The attendance officer shall institute proceedings against any officer, parent, guardian, person, company or corporation violating any provisions of RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, and shall otherwise discharge the duties prescribed in RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, and shall perform such other services as the educational service district superintendent or the superintendent of any school or its board of directors may deem necessary. However, the attendance officer shall not institute proceedings against the child under RCW (~~28A.27.022~~) 28A.225.030 except as set forth under RCW (~~28A.27.022~~) 28A.225.030.

The attendance officer shall keep a record of his or her transactions for the inspection and information of any school district board of directors, the educational service district superintendent or the city superintendent, and shall make a detailed report to the city superintendent or the educational service district superintendent as often as the same may be required.

Sec. 223. Section 28A.27.070, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 201, Laws of 1979 ex. sess. and RCW 28A.27.070 are each amended to read as follows:

Any attendance officer, sheriff, deputy sheriff, marshal, (~~police man~~) police officer, or any other officer authorized to make arrests, shall take into

custody without a warrant a child who is required under the provisions of RCW ((~~28A.27.010 through 28A.27.130~~)) 28A.225.010 through 28A.225.140 to attend school, such child then being a truant from instruction at the school which he or she is lawfully required to attend, and shall forthwith deliver a child so detained either (1) to the custody of a person in parental relation to the child or (2) to the school from which the child is then a truant.

Sec. 224. Section 28A.27.080, chapter 223, Laws of 1969 ex. sess. as last amended by section 57, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.27.080 are each amended to read as follows:

The educational service district superintendent, on or before the fifteenth day of August of each year, by printed circular or otherwise, shall call the attention of all school district officials to the provisions of RCW ((~~28A.27.010 through 28A.27.130~~)) 28A.225.010 through 28A.225.140, and to the penalties prescribed for the violation of its provisions, and he or she shall require those officials of the school district which he or she shall designate to make a report annually hereafter, verified by affidavit, stating whether or not the provisions of RCW ((~~28A.27.010 through 28A.27.130~~)) 28A.225.010 through 28A.225.140 have been faithfully complied with in his or her district. Such reports shall be made upon forms to be furnished by the superintendent of public instruction and shall be transmitted to the educational service district superintendent at such time as the educational service district superintendent shall determine, after notice thereof. Any school district official who shall knowingly or ((~~wilfully~~)) willfully make a false report relating to the enforcement of the provisions of RCW ((~~28A.27.010 through 28A.27.130~~)) 28A.225.010 through 28A.225.140 or fail to report as herein provided shall be deemed guilty of a misdemeanor, and upon conviction in a court of competent jurisdiction shall be fined not less than twenty-five dollars nor more than one hundred dollars; and any school district official who shall refuse or neglect to make the report required in this section, shall be personally liable to his or her district for any loss which it may sustain because of such neglect or refusal to report.

Sec. 225. Section 28A.27.090, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.090 are each amended to read as follows:

Except as otherwise provided in this code, no child under the age of fifteen years shall be employed for any purpose by any person, company or corporation, in this state during the hours which the public schools of the district in which such child resides are in session, unless the said child shall present a certificate from a school superintendent as provided for in RCW ((~~28A.27.010~~)) 28A.225.010, excusing the said child from attendance in the public schools and setting forth the reason for such excuse, the residence and age of the child, and the time for which such excuse is given. Every owner, superintendent, or overseer of any establishment, company or corporation shall keep such certificate on file so long as such child is employed by

him or her. The form of said certificate shall be furnished by the superintendent of public instruction. Proof that any child under fifteen years of age is employed during any part of the period in which public schools of the district are in session, shall be deemed prima facie evidence of a violation of this section.

Sec. 226. Section 28A.27.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 189, chapter 202, Laws of 1987 and RCW 28A.27.100 are each amended to read as follows:

Any person violating any of the provisions of either RCW (~~28A.27.010 or 28A.27.090~~) 28A.225.010 or 28A.225.080 shall be fined not more than twenty-five dollars for each day of unexcused absence from school. However, a child found to be in violation of RCW (~~28A.27.010~~) 28A.225.010 shall be required to attend school and shall not be fined. Failure by a child to comply with an order issued under this section shall not be punishable by detention for a period greater than that permitted pursuant to a contempt proceeding against a child under chapter 13.32A RCW. It shall be a defense for a parent charged with violating RCW (~~28A.27.010~~) 28A.225.010 to show that he or she exercised reasonable diligence in attempting to cause a child in his or her custody to attend school or that the juvenile's school did not perform its duties as required in RCW (~~28A.27.020~~) 28A.225.020. Any fine imposed pursuant to this section may be suspended upon the condition that a parent charged with violating RCW (~~28A.27.010~~) 28A.225.010 shall participate with the school and the juvenile in a supervised plan for the juvenile's attendance at school or upon condition that the parent attend a conference or conferences scheduled by a school for the purpose of analyzing the causes of a child's absence.

Attendance officers shall make complaint for violation of the provisions of RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140 to a judge of the superior or district court.

Sec. 227. Section 14, chapter 15, Laws of 1970 ex. sess. as last amended by section 190, chapter 202, Laws of 1987 and RCW 28A.27.102 are each amended to read as follows:

Any school district superintendent, teacher or attendance officer who shall fail or refuse to perform the duties prescribed by RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140 shall be deemed guilty of a misdemeanor and, upon conviction thereof, be fined not less than twenty nor more than one hundred dollars: PROVIDED, That in case of a school district employee, such fine shall be paid to the appropriate county treasurer and by the county treasurer placed to the credit of the school district in which said employee is employed, and in case of all other officers such fine shall be paid to the county treasurer of the county in which the educational service district headquarters is located and by the county treasurer placed to the credit of the general school fund of the educational service district: 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. 228. Section 28A.27.104, chapter 223, Laws of 1969 ex. sess. as last amended by section 191, chapter 202, Laws of 1987 and RCW 28A.27.104 are each amended to read as follows:

Notwithstanding the provisions of RCW 10.82.070, all fines except as otherwise provided in RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140 shall inure and be applied to the support of the public schools in the school district where such offense was committed: 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. 229. Section 28A.27.110, chapter 223, Laws of 1969 ex. sess. as last amended by section 6, chapter 132, Laws of 1986 and RCW 28A.27.110 are each amended to read as follows:

The county prosecuting attorney or the attorney for the school district shall act as attorney for the complainant in all court proceedings relating to the compulsory attendance of children as required by RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140 except for those petitions filed against a child by the parent without the assistance of the school district.

Sec. 230. Section 28A.27.120, chapter 223, Laws of 1969 ex. sess. as amended by section 192, chapter 202, Laws of 1987 and RCW 28A.27.120 are each amended to read as follows:

In cases arising under RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, all district courts, municipal courts or departments, and superior courts in the state of Washington shall have concurrent jurisdiction.

Sec. 231. Section 28A.27.130, chapter 223, Laws of 1969 ex. sess. and RCW 28A.27.130 are each amended to read as follows:

No officer performing any duty under any of the provisions of RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140, or under the provisions of any rules that may be passed in pursuance hereof, shall in any wise become liable for any costs that may accrue in the performance of any duty prescribed by RCW (~~28A.27.010 through 28A.27.130~~) 28A.225.010 through 28A.225.140.

Sec. 232. Section 7, chapter 132, Laws of 1986 and RCW 28A.27.140 are each amended to read as follows:

The school district attendance officer shall report biannually to the educational service district superintendent, in the instance of petitions filed alleging a violation by a child under RCW (~~28A.27.022~~) 28A.225.030:

- (1) The number of petitions filed by a school district or by a parent;
- (2) The frequency of each action taken under RCW (~~((28A.27.020))~~) 28A.225.020 prior to the filing of such petition;
- (3) When deemed appropriate under RCW (~~((28A.27.020))~~) 28A.225.020, the frequency of delivery of supplemental services; and
- (4) Disposition of cases filed with the juvenile court, including the frequency of contempt orders issued to enforce a court's order under RCW (~~((28A.27.100))~~) 28A.225.090.

The educational service district superintendent shall compile such information and report annually to the superintendent of public instruction. The superintendent of public instruction shall compile such information and report to the committees of the house of representatives and the senate by January 1, 1988.

Sec. 233. Section 28A.58.215, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.215 are each amended to read as follows:

It shall be the duty of the school district superintendent of a school district contiguous to any United States military, naval or lighthouse reservation or national park in which the majority of children residing within such reservation or park attend, to take a census of the children residing within such reservation or park at the time of taking the census of the school children of ~~((his))~~ the school district superintendent's district as otherwise provided by law and to report such census in the manner provided by law for reporting the school census of his or her district.

Sec. 234. Section 28A.58.225, chapter 223, Laws of 1969 ex. sess. as last amended by section 6, chapter 268, Laws of 1988 and RCW 28A.58.225 are each amended to read as follows:

(1) A local district may be authorized by the educational service district superintendent to transport and educate its pupils in other districts for one year, either by payment of a compensation agreed upon by such school districts, or under other terms mutually satisfactory to the districts concerned when this will afford better educational facilities for the pupils and when a saving may be effected in the cost of education: PROVIDED, That notwithstanding any other provision of law, the amount to be paid by the state to the resident school district for apportionment purposes and otherwise payable pursuant to (~~((chapter 28A.41))~~) RCW 28A.150.100, 28A.150.250 through 28A.150.290, 28A.150.350 through 28A.150.410, 28A.160.150 through 28A.160.200, 28A.160.220, 28A.300.170, and 28A.500.010 shall not be greater than the regular apportionment for each high school student of the receiving district. Such authorization may be extended for an additional year at the discretion of the educational service district superintendent.

(2) Subsection (1) of this section shall not apply to districts participating in a cooperative project established under RCW (~~((28A.100.084))~~) 28A.340.030 which exceeds two years in duration.

Sec. 235. Section 28A.58.230, chapter 223, Laws of 1969 ex. sess. as last amended by section 37, chapter 3, Laws of 1983 and RCW 28A.58.230 are each amended to read as follows:

Every school district shall admit on a tuition free basis all persons of school age who reside within this state, and do not reside within another school district carrying the grades for which they are eligible to enroll: PROVIDED, That nothing in this section shall be construed as affecting RCW (~~(28A.58.240 or 28A.58.245)~~) 28A.225.220 or 28A.225.250.

Sec. 236. Section 1, chapter 66, Laws of 1975 1st ex. sess. as amended by section 1, chapter 50, Laws of 1977 and RCW 28A.58.242 are each amended to read as follows:

The decision of a school district within which a student under the age of twenty-one years resides or of a school district within which such a student under the age of twenty-one years was last enrolled and is considered to be a resident for attendance purposes by operation of law, to deny such student's request for release to a nonresident school district by an agreement pursuant to RCW (~~(28A.58.240)~~) 28A.225.220 may be appealed to the superintendent of public instruction or his or her designee: PROVIDED, That the school district of proposed transfer is willing to accept the student.

The superintendent of public instruction or his or her designee shall hear the appeal and examine the evidence. The superintendent of public instruction may order the resident district to release such a student who is under the age of twenty-one years in the event he or she or his or her designee finds that a special hardship or detrimental condition of a financial, educational, safety or health nature affecting the student or the student's immediate family or custodian may likely be significantly alleviated as a result of the transfer. The decision of the superintendent of public instruction may be appealed to superior court pursuant to chapter 34.05 RCW, the administrative procedure act, as now or hereafter amended.

17. Compulsory Coursework and Activities

Sec. 237. Section 2, chapter 278, Laws of 1984 and RCW 28A.05.005 are each amended to read as follows:

School district boards of directors shall identify and offer courses with content that meet or exceed: (1) The basic education skills identified in RCW (~~(28A.58.752)~~) 28A.150.210; (2) the graduation requirements under RCW (~~(28A.05.060)~~) 28A.230.090; and (3) the courses required to meet the minimum college entrance requirements under RCW (~~(28A.05.070)~~) 28A.230.130. Such courses may be applied or theoretical, academic or vocational.

Sec. 238. Section 6, chapter 489, Laws of 1987 and RCW 28A.58.255 are each amended to read as follows:

(1) Every school district board of directors shall develop a written policy regarding the district's role and responsibility relating to the prevention of child abuse and neglect.

(2) Every school district shall, within the resources available to it: (a) Participate in the primary prevention program established under RCW (~~28A.03.514~~) 28A.300.160; (b) develop and implement its own child abuse and neglect education and prevention program; or (c) continue with an existing local child abuse and neglect education and prevention program.

Sec. 239. Section 1, chapter 384, Laws of 1985 and RCW 28A.05.062 are each amended to read as follows:

The state board of education shall adopt rules pursuant to chapter 34-.05 RCW, to implement the course requirements set forth in RCW (~~28A-05.060~~) 28A.230.090. Such rules shall include, as the state board deems necessary, granting equivalencies for and temporary exemptions from the course requirements in RCW (~~28A.05.060~~) 28A.230.090 and special alterations of the course requirements in RCW (~~28A.05.060~~) 28A.230.090. In developing such rules the state board shall recognize the relevance of vocational and applied courses and allow such courses to fulfill in whole or in part the courses required for graduation in RCW (~~28A.05.060~~) 28A.230.090. Such rules may include provisions for competency testing in lieu of such courses required for graduation in RCW (~~28A.05.060~~) 28A.230.090.

Sec. 240. Section 4, chapter 384, Laws of 1985 and RCW 28A.05.064 are each amended to read as follows:

The state board of education shall establish for students who commence the ninth grade subsequent to July 1, 1987, an additional one credit elective requirement to be chosen from fine, visual, or performing arts, any of the subject areas as set forth in RCW (~~28A.05.060~~) 28A.230.090, or any combination thereof.

Sec. 241. Section 12, chapter 15, Laws of 1970 ex. sess. as last amended by section 1, chapter 60, Laws of 1985 and RCW 28A.02.070 are each amended to read as follows:

During the school week preceding the eleventh day of November of each year, there shall be presented in each common school as defined in RCW (~~28A.01.060~~) 28A.150.020 educational activities suitable to the observance of Veterans' Day.

The responsibility for the preparation and presentation of the activities approximating at least sixty minutes total throughout the week shall be with the principal or head teacher of each school building and such program shall embrace topics tending to instill a loyalty and devotion to the institutions and laws of this state and nation.

The superintendent of public instruction and each educational service district superintendent, by advice and suggestion, shall aid in the preparation of these activities if such aid be solicited.

18. Food Services

Sec. 242. Section 2, chapter 193, Laws of 1987 and RCW 28A.29.020 are each amended to read as follows:

All reasonably ascertainable costs of performing the duties assumed and performed under (~~(this chapter)~~) RCW 28A.235.010 through 28A.235.030 and 28A.235.140 by either the superintendent of public instruction or another state or local governmental entity in support of the superintendent of public instruction's duties under (~~(this chapter)~~) RCW 28A.235.010 through 28A.235.030 and 28A.235.140 shall be paid exclusively with federal funds and, if any, private gifts and grants. The federal food services revolving fund is hereby established in the custody of the state treasurer. The office of the superintendent of public instruction shall deposit in the fund federal funds received under RCW (~~(28A.29.010)~~) 28A.235.010, recoveries of such funds, and gifts or grants made to the revolving fund. Disbursements from the fund shall be on authorization of the superintendent of public instruction or the superintendent's designee. The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements. The superintendent of public instruction is authorized to expend from the federal food services revolving fund such funds as are necessary to implement (~~(this chapter)~~) RCW 28A.235.010 through 28A.235.030 and 28A.235.140.

Sec. 243. Section 28A.30.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.30.030 are each amended to read as follows:

In purchasing or otherwise acquiring surplus or donated commodities on the requisition of a school district the superintendent may advance the purchase price and other cost of acquisition thereof from the surplus and donated food commodities revolving fund and (~~(he)~~) the superintendent shall in due course bill the proper school district for the amount paid by him or her for the commodities plus a reasonable amount to cover the expenses incurred by (~~(his)~~) the superintendent's office in connection with the transaction. All payments received for surplus or donated commodities from school districts shall be deposited by the superintendent in the surplus and donated food commodities revolving fund.

Sec. 244. Section 28A.30.060, chapter 223, Laws of 1969 ex. sess. and RCW 28A.30.060 are each amended to read as follows:

The surplus and donated food commodities revolving fund shall be deposited by the superintendent in such banks as he or she may select, but any such depository shall furnish a surety bond executed by a surety company or companies authorized to do business in the state of Washington, or collateral eligible as security for deposit of state funds, in at least the full amount

of the deposit in each depository bank. Moneys shall be paid from the surplus and donated food commodities revolving fund by voucher and check in such form and in such manner as shall be prescribed by the superintendent.

Sec. 245. Section 28A.30.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.30.070 are each amended to read as follows:

The superintendent of public instruction shall have power to promulgate rules and regulations as may be necessary to effectuate the purposes of ~~((this chapter))~~ RCW 28A.235.040 through 28A.235.110.

Sec. 246. Section 28A.30.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.30.080 are each amended to read as follows:

Any provision of law, or any resolution, rule or regulation which is inconsistent with the provisions of ~~((this chapter))~~ RCW 28A.235.040 through 28A.235.110 is suspended to the extent such provision is inconsistent herewith.

Sec. 247. Section 28A.58.136, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 140, Laws of 1979 ex. sess. and RCW 28A.58.136 are each amended to read as follows:

The directors of any school district may establish, equip and operate lunchrooms in school buildings for pupils, certificated and noncertificated employees, and for school or employee functions: PROVIDED, That the expenditures for food supplies shall not exceed the estimated revenues from the sale of lunches, federal lunch aid, Indian education fund lunch aid, or other anticipated revenue, including donations, to be received for that purpose: PROVIDED FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals to elderly persons at cost as provided in RCW ~~((28A.58.722))~~ 28A.623.020: PROVIDED, FURTHER, That the directors of any school district may provide for the use of kitchens and lunchrooms or other facilities in school buildings to furnish meals at cost as provided in RCW ~~((28A.58.724))~~ 28A.623.030 to children who are participating in educational or training or care programs or activities conducted by private, nonprofit organizations and entities and to students who are attending private elementary and secondary schools. Operation for the purposes of this section shall include the employment and discharge for sufficient cause of personnel necessary for preparation of food or supervision of students during lunch periods and fixing their compensation, payable from the district general fund, or entering into agreement with a private agency for the establishment, management and/or operation of a food service program or any part thereof.

19. School-based Management

Sec. 248. Section 2, chapter 422, Laws of 1985 and RCW 28A.03.423 are each amended to read as follows:

To carry out the school-based management pilot projects of RCW ((28A.58.082)) 28A.240.030, the superintendent of public instruction shall:

(1) Grant funds to local school districts that apply for funding on a grant proposal or other basis, to establish pilot projects in school-based management: PROVIDED, That in at least one project every building in a district shall use school-based management;

(2) Develop guidelines, in consultation with school districts, for school-based management programs;

(3) Assist districts and schools, upon request, to design, implement, or evaluate school improvement programs authorized by RCW ((28A.58.082)) 28A.240.030;

(4) Submit a report to the legislature not later than two and one-half years after June 27, 1985, on the results of the pilot projects, any other similar programs being used in local districts, and any recommendations;

(5) These school-based management pilot projects are not part of the program of basic education which the state must fund under Article IX of the state Constitution.

Sec. 249. Section 3, chapter 422, Laws of 1985 and RCW 28A.58.082 are each amended to read as follows:

(1) Each pilot project school that participates in the school-based management program authorized by RCW ((28A.03.423)) 28A.240.010 shall be required to establish a school site council. The council shall be minimally composed of the school principal, teachers, other school personnel, parents of pupils attending the school, nonparent community members from the school's service area, and, in secondary schools, pupils. Existing school-wide advisory groups or school support groups may be used as the school site council if such groups conform to the general membership requirements of this section.

(2) The exact size of the council and the term and method of selection and replacement of council members shall be specified in the school improvement plan developed pursuant to subsection (3) of this section.

(3) Each school site council shall be required to develop an annual school improvement plan containing improvement objectives as established by the council under guidelines developed by the superintendent of public instruction.

(4) The board of directors of each school district in which a school is participating in the school-based management program authorized by RCW ((28A.03.423)) 28A.240.010 shall review and approve or disapprove planning applications and school improvement plans consistent with, but not limited to, rules and regulations adopted by the superintendent of public instruction. No school improvement plan may be approved unless it was developed and recommended by a school site council. The board of directors

shall notify the school site council in writing of specific reasons for not approving the school improvement plan. Modifications to the plan shall be developed and recommended by the council and approved or disapproved by the board of directors.

PART II ORGANIZATION

20. Superintendent of Public Instruction

Sec. 250. Section 28A.03.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.03.010 are each amended to read as follows:

A superintendent of public instruction shall be elected by the qualified electors of the state, on the first Tuesday after the first Monday in November of the year in which state officers are elected, and shall hold his or her office for the term of four years, and until his or her successor is elected and qualified.

Sec. 251. Section 28A.03.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 160, Laws of 1982 and RCW 28A.03.030 are each amended to read as follows:

In addition to any other powers and duties as provided by law, the powers and duties of the superintendent of public instruction shall be:

(1) To have supervision over all matters pertaining to the public schools of the state.

(2) To report to the governor and the legislature such information and data as may be required for the management and improvement of the schools.

(3) To prepare and have printed such forms, registers, courses of study, rules and regulations for the government of the common schools, questions prepared for the examination of persons as provided for in RCW ((28A.04.120(7))) 28A.305.130(9), and such other material and books as may be necessary for the discharge of the duties of teachers and officials charged with the administration of the laws relating to the common schools, and to distribute the same to educational service district superintendents.

(4) To travel, without neglecting his or her other official duties as superintendent of public instruction, for the purpose of attending educational meetings or conventions, of visiting schools, of consulting educational service district superintendents or other school officials.

(5) To prepare and from time to time to revise a manual of the Washington state common school code, copies of which shall be provided in such numbers as determined by the superintendent of public instruction at no cost to those public agencies within the common school system and which shall be sold at approximate actual cost of publication and distribution per volume to all other public and nonpublic agencies or individuals,

said manual to contain Titles 28A and 28C RCW, rules and regulations related to the common schools, and such other matter as the state superintendent or the state board of education shall determine. Proceeds of the sale of such code shall be transmitted to the public printer who shall credit the state superintendent's account within the state printing plant revolving fund by a like amount.

(6) To act as ex officio member and the chief executive officer of the state board of education.

(7) To hold, annually, a convention of the educational service district superintendents of the state at such time and place as he or she may deem convenient, for the discussion of questions pertaining to supervision and the administration of the school laws and such other subjects affecting the welfare and interests of the common schools as may be brought before it. Said convention shall continue in session at the option of the superintendent of public instruction. It shall be the duty of every educational service district superintendent in this state to attend said convention during its entire session, and any educational service district superintendent who attends the convention shall be reimbursed for traveling and subsistence expenses as provided in RCW (~~(28A.21.130)~~) 28A.310.320 in attending said convention.

(8) To file all papers, reports and public documents transmitted to ~~((him))~~ the superintendent by the school officials of the several counties or districts of the state, each year separately. Copies of all papers filed in ~~((his))~~ the superintendent's office, and ~~((his))~~ the superintendent's official acts, may, or upon request, shall be certified by ~~((him))~~ the superintendent and attested by ~~((his))~~ the superintendent's official seal, and when so certified shall be evidence of the papers or acts so certified to.

(9) To require annually, on or before the 15th day of August, of the president, manager, or principal of every educational institution in this state, a report of such facts arranged in such manner as ~~((he))~~ the superintendent may prescribe, and ~~((he))~~ the superintendent shall furnish forms for such reports; and it is hereby made the duty of every president, manager or principal, to complete and return such forms within such time as the superintendent of public instruction shall direct.

(10) To keep in ~~((his))~~ the superintendent's office a record of all teachers receiving certificates to teach in the common schools of this state.

(11) To issue certificates as provided by law.

(12) To keep in ~~((his))~~ the superintendent's office at the capital of the state, all books and papers pertaining to the business of ~~((his))~~ the superintendent's office, and to keep and preserve in ~~((his))~~ the superintendent's office a complete record of statistics, as well as a record of the meetings of the state board of education.

(13) With the assistance of the office of the attorney general, to decide all points of law which may be submitted to ~~((him))~~ the superintendent in

writing by any educational service district superintendent, or that may be submitted to ~~((him))~~ the superintendent by any other person, upon appeal from the decision of any educational service district superintendent; and ~~((he))~~ the superintendent shall publish his or her rulings and decisions from time to time for the information of school officials and teachers; and ~~((his))~~ the superintendent's decision shall be final unless set aside by a court of competent jurisdiction.

(14) To administer oaths and affirmations in the discharge of ~~((his))~~ the superintendent's official duties.

(15) To deliver to his or her successor, at the expiration of ~~((his))~~ the superintendent's term of office, all records, books, maps, documents and papers of whatever kind belonging to ~~((his))~~ the superintendent's office or which may have been received by ~~((him))~~ the superintendent's for the use of ~~((his))~~ the superintendent's office.

(16) To perform such other duties as may be required by law.

Sec. 252. Section 227, chapter 525, Laws of 1987 and RCW 28A.03-.375 are each amended to read as follows:

The superintendent of public instruction shall provide technical assistance to the state board of education in the conduct of the activities described in sections 202 through 232 of this act.

Sec. 253. Section 1, chapter 5, Laws of 1975 1st ex. sess. as amended by section 23, chapter 118, Laws of 1975-'76 2nd ex. sess. and RCW 28A-.03.350 are each amended to read as follows:

The legislature finds that the administration costs of school districts are not sufficiently known to permit sound financial planning by those affected by such costs. Accordingly, the legislature hereby authorize and directs the superintendent of public instruction and the state auditor jointly, and in cooperation with the senate and house committees on education, to conduct appropriate studies and adopt classifications or revised classifications under RCW ~~((28A.65.445))~~ 28A.505.100, defining what expenditures shall be charged to each budget class including administration. Such studies and classifications shall be published in the form of a manual or revised manual, suitable for use by the governing bodies of school districts, by the superintendent of public instruction, and by the legislature.

Sec. 254. Section 3, chapter 34, Laws of 1983 1st ex. sess. and RCW 28A.03.419 are each amended to read as follows:

The superintendent of public instruction, pursuant to chapter 34.05 RCW, shall adopt such rules as are necessary to carry out the provisions of RCW ~~((28A.03.417))~~ 28A.300.090.

Sec. 255. Section 5, chapter 278, Laws of 1984 as last amended by section 208, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.03.425 are each amended to read as follows:

The office of the superintendent of public instruction, in consultation with the state board of education, shall prepare model curriculum programs and/or curriculum guidelines in three subject areas each year. These model curriculum programs or curriculum guidelines shall span all grade levels and shall include statements of expected learning outcomes, content, integration with other subject areas including guidelines for the application of vocational and applied courses to fulfill in whole or in part the courses required for graduation under RCW ((28A.05.060)) 28A.230.090, recommended instructional strategies, and suggested resources.

Certificated employees with expertise in the subject area under consideration shall be chosen by the superintendent of public instruction from each educational service district, from a list of persons suggested by their peers, to work with the staff of the superintendent of public instruction to prepare each model curriculum program or curriculum guidelines. Each participant shall be paid his or her regular salary by his or her district, and travel and per diem expenses by the superintendent of public instruction. The superintendent of public instruction shall make selections of additional experts in the subject area under consideration as are needed to provide technical assistance and to review and comment upon the model curriculum programs and/or curriculum guidelines before publication and shall be paid travel and per diem expenses by the superintendent of public instruction as necessary. The model curriculum programs and curriculum guidelines shall be made available to all districts. Participants developing model curriculum programs and/or curriculum guidelines may be used by school districts to provide training or technical assistance or both. After completion of the original development of model curriculum programs or curriculum guidelines, the office of the superintendent of public instruction shall schedule, at least every five years, a regular review and updating of programs and guidelines in each subject matter area.

Sec. 256. Section 1, chapter 119, Laws of 1987 and RCW 28A.03.511 are each amended to read as follows:

There is hereby created the state clearinghouse for educational information revolving fund in the custody of the state treasurer. The fund shall consist of: Funds appropriated to the revolving fund, gifts or grants made to the revolving fund, and fee revenues assessed and collected by the superintendent of public instruction pursuant to RCW ((28A.03.510)) 28A.300.130. The superintendent of public instruction is authorized to expend from the state clearinghouse for educational information revolving fund such funds as are necessary for the payment of costs, expenses, and charges incurred in the reproduction, handling, and delivery by mail or otherwise of materials and information furnished pursuant to RCW ((28A.03.510(3))) 28A.300.130(3).

The fund is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

21. State Board of Education

Sec. 257. Section 28A.04.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 255, Laws of 1988 and RCW 28A.04-.010 are each amended to read as follows:

The state board of education shall be comprised of two members from each congressional district of the state, not including any congressional district at large, elected by the members of the boards of directors of school districts thereof, as hereinafter in this chapter provided, the superintendent of public instruction and one member elected at large, as ~~((hereinafter))~~ provided in this chapter ~~((provided))~~, by the members of the boards of directors of all private schools in the state meeting the requirements of RCW ~~((28A.02.201, as now or hereafter amended))~~ 28A.195.010. The member representing private schools shall not vote on matters affecting public schools. If there is a dispute about whether or not an issue directly affects public schools, the dispute shall be settled by a majority vote of the other members of the board.

Sec. 258. Section 28A.04.020, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 255, Laws of 1988 and RCW 28A.04-.020 are each amended to read as follows:

Not later than the twenty-fifth day of August of each year, the superintendent of public instruction shall call for the following elections to be held: An election in each congressional district within which resides a member of the state board of education whose term of membership will end on the second Monday of January next following, and an election of the member of the state board of education representing private schools if the term of membership will end on the second Monday of January next following. The superintendent of public instruction shall give written notice thereof to each member of the board of directors of each common school district in such congressional district, and to the ~~((chairperson))~~ chair of the board of directors of each private school who shall distribute said notice to each member of the private school board. Such notice shall include the election calendar and rules and regulations established by the superintendent of public instruction for the conduct of the election.

Sec. 259. Section 28A.04.030, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 7, Laws of 1982 1st ex. sess. and RCW 28A.04.030 are each amended to read as follows:

(1) Whenever any new and additional congressional district is created, except a congressional district at large, the superintendent of public instruction shall call an election in such district at the time of making the call provided for in RCW ~~((28A.04.020))~~ 28A.305.020. Such election shall be conducted as other elections provided for in this chapter. At the first such election two members of the state board of education shall be elected, one

for a term of three years and one for a term of six years. At the expiration of the term of each, a member shall be elected for a term of six years.

(2) The terms of office of members of the state board of education who are elected from the various congressional districts shall not be affected by the creation of either new or new and additional districts. In such an event, each board member may continue to serve in office for the balance of the term for which he or she was elected or appointed: PROVIDED, That the board member continues to reside within the boundaries of the congressional district as they existed at the time of his or her election or appointment. Vacancies which occur in a board member position during the balance of any such term shall be filled pursuant to RCW (~~28A.04.080, as now or hereafter amended;~~) 28A.305.090 by a successor who resides within the boundaries of the congressional district from which the member whose office was vacated was elected as they existed at the time of his or her election. At the election immediately preceding expiration of the term of office of each board member provided for in this subsection following the creation of either new or new and additional congressional districts, and thereafter, a successor shall be elected from the congressional district which corresponds in number with the congressional district from which the incumbent was appointed or elected.

Sec. 260. Section 28A.04.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 7, Laws of 1982 1st ex. sess. and RCW 28A.04.040 are each amended to read as follows:

(1) Candidates for membership on the state board of education shall file declarations of candidacy with the superintendent of public instruction on forms prepared by the superintendent. Declarations of candidacy may be filed by person or by mail not earlier than the first day of September, or later than the sixteenth day of September. The superintendent of public instruction may not accept any declaration of candidacy that is not on file in ~~((his))~~ the superintendent's office or is not postmarked before the seventeenth day of September, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of September. No person employed in any school, college, university, or other educational institution or any educational service district superintendent's office or in the office of superintendent of public instruction shall be eligible for membership on the state board of education and each member elected who is not representative of the private schools in this state and thus not running-at-large must be a resident of the congressional district from which he or she was elected. No member of a board of directors of a local school district or private school shall continue to serve in that capacity after having been elected to the state board.

(2) The prohibitions against membership upon the board of directors of a school district or school and against employment, as well as the residence requirement, established by this section, are conditions to the eligibility of

state board members to serve as such which apply throughout the terms for which they have been elected or appointed. Any state board member who hereafter fails to meet one or more of the conditions to eligibility shall be deemed to have immediately forfeited his or her membership upon the board for the balance of his or her term: PROVIDED, That such a forfeiture of office shall not affect the validity of board actions taken prior to the date of notification to the board during an open public meeting of the violation.

Sec. 261. Section 28A.04.050, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 255, Laws of 1988 and RCW 28A.04-.050 are each amended to read as follows:

Each member of the board of directors of each school district in each congressional district shall be eligible to vote for the candidates who reside in his or her congressional district. Each (~~chairperson~~) chair of the board of directors of each eligible private school shall cast a vote for the candidate receiving a majority in an election to be held as follows: Each member of the board of directors of each eligible private school shall vote for candidates representing the private schools in an election of the board, the purpose of which is to determine the board's candidate for the member representing private schools on the state board. Not later than the first day of October the superintendent of public instruction shall mail to each member of each common school district board of directors and to each (~~chairperson~~) chair of the board of directors of each private school, the proper ballot and voting instructions for his or her congressional district together with biographical data concerning each candidate listed on such ballot, which data shall have been prepared by the candidate.

Sec. 262. Section 28A.04.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 38, Laws of 1981 and RCW 28A.04.060 are each amended to read as follows:

Each member of the state board of education shall be elected by a majority of the electoral points accruing from all the votes cast at the election for all candidates for the position. All votes shall be cast by mail addressed to the superintendent of public instruction and no votes shall be accepted for counting if postmarked after the sixteenth day of October, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of October following the call of the election. The superintendent of public instruction and an election board comprised of three persons appointed by the state board of education shall count and tally the votes and the electoral points accruing therefrom not later than the twenty-fifth day of October. The votes shall be counted and tallied and electoral points determined in the following manner for the ballot cast by common school district board directors: Each vote cast by a school director shall be accorded as many electoral points as there are enrolled students in that director's school district as determined by the enrollment reports forwarded to

the state superintendent of public instruction for apportionment purposes for the month of September of the year of election: PROVIDED, That school directors from a school district which has more than five directors shall have their electoral points based upon enrollment recomputed by multiplying such number by a fraction, the denominator of which shall be the number of directors in such district, and the numerator of which shall be five; the electoral points shall then be tallied for each candidate as the votes are counted; and it shall be the majority of electoral points which determines the winning candidate. The votes shall be counted and electoral points determined in the following manner for the ballots cast by ~~((chairpersons))~~ chairs of the board of directors of each private school: Each vote cast by a private school board shall be accorded as many electoral points as the number of enrolled students in the respective school as determined by enrollment reports forwarded to the superintendent of public instruction for the month of September in the year previous to the year of election and it shall be the majority of electoral points which determines the winning candidate. If no candidate receives a majority of the electoral points cast, then, not later than the first day of November, the superintendent of public instruction shall call a second election to be conducted in the same manner and at which the candidates shall be the two candidates receiving the highest number of electoral points accruing from such votes cast. No vote cast at such second election shall be received for counting if postmarked after the sixteenth day of November, or if not postmarked or the postmark is not legible, if received by mail after the twenty-first day of November and the votes shall be counted as hereinabove provided on the twenty-fifth day of November. The candidate receiving a majority of electoral points accruing from the votes at any such second election shall be declared elected. In the event of a tie in such second election, the candidate elected shall be determined by a chance drawing of a nature established by the superintendent of public instruction. Within ten days following the count of votes in an election at which a member of the state board of education is elected, the superintendent of public instruction shall certify to the secretary of state the name or names of the persons elected to be members of the state board of education.

Sec. 263. Section 28A.04.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.070 are each amended to read as follows:

The term of office of each member of the state board of education shall begin on the second Monday in January next following the election at which he or she was elected, and he or she shall hold office for the term for which he or she was elected and until his or her successor is elected and qualified. Except as otherwise provided in RCW ~~((28A.04.030))~~ 28A.305.030, each member of the state board of education shall be elected for a term of six years.

Sec. 264. Section 28A.04.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.04.080 are each amended to read as follows:

Whenever there shall be a vacancy upon the state board of education, from any cause whatever, it shall be the duty of the remaining members of the board to fill such vacancy by appointment, and the person so appointed shall continue in office until his or her successor has been specially elected, as hereinafter in this section provided, and has qualified. Whenever a vacancy occurs, the superintendent of public instruction shall call, in the month of August next following the date of the occurrence of such vacancy, a special election to be held in the same manner as other elections provided for in this chapter, at which election a successor shall be elected to hold office for the unexpired term of the member whose office was vacated.

Sec. 265. Section 28A.04.100, chapter 223, Laws of 1969 ex. sess. as amended by section 3, chapter 160, Laws of 1982 and RCW 28A.04.100 are each amended to read as follows:

The state board of education shall appoint some person to be ex officio secretary of said board who shall not be entitled to a vote in its proceedings. The secretary shall keep a correct record of board proceedings, which shall be kept in the office of the superintendent of public instruction. He or she shall also, upon request, furnish to interested school officials a copy of such proceedings.

Sec. 266. Section 1, chapter 39, Laws of 1987, section 1, chapter 464, Laws of 1987 and RCW 28A.04.120 are each reenacted and amended to read as follows:

In addition to any other powers and duties as provided by law, the state board of education shall:

(1) Approve or disapprove the program of courses leading to teacher, school administrator, and school specialized personnel certification offered by all institutions of higher education within the state which may be accredited and whose graduates may become entitled to receive such certification.

(2) Conduct every five years a review of the program approval standards, including the minimum standards for teachers, administrators, and educational staff associates, to reflect research findings and assure continued improvement of preparation programs for teachers, administrators, and educational staff associates.

(3) Investigate the character of the work required to be performed as a condition of entrance to and graduation from any institution of higher education in this state relative to such certification as provided for in subsection (1) above, and prepare a list of accredited institutions of higher education of this and other states whose graduates may be awarded such certificates.

(4)(a) The state board of education shall adopt rules to allow a teacher certification candidate to fulfill, in part, teacher preparation program requirements through work experience as a noncertificated teacher's aide in a

public school or private school meeting the requirements of RCW ((~~28A-02-201~~)) 28A.195.010. The rules shall include, but are not limited to, limitations based upon the recency of the teacher preparation candidate's teacher aide work experience, and limitations based on the amount of work experience that may apply toward teacher preparation program requirements under this chapter.

(b) The state board of education shall require that at the time of the individual's enrollment in a teacher preparation program, the supervising teacher and the building principal shall jointly provide to the teacher preparation program of the higher education institution at which the teacher candidate is enrolled, a written assessment of the performance of the teacher candidate. The assessment shall contain such information as determined by the state board of education and shall include: Evidence that at least fifty percent of the candidate's work as a noncertificated teacher's aide was involved in instructional activities with children under the supervision of a certificated teacher and that the candidate worked a minimum of six hundred thirty hours for one school year; the type of work performed by the candidate; and a recommendation of whether the candidate's work experience as a noncertificated teacher's aide should be substituted for teacher preparation program requirements. In compliance with such rules as may be established by the state board of education under this section, the teacher preparation programs of the higher education institution where the candidate is enrolled shall make the final determination as to what teacher preparation program requirements may be fulfilled by teacher aide work experience.

(5) Supervise the issuance of such certificates as provided for in subsection (1) above and specify the types and kinds of certificates necessary for the several departments of the common schools by rule or regulation in accordance with RCW ((~~28A-70-005~~)) 28A.410.010.

(6) Accredit, subject to such accreditation standards and procedures as may be established by the state board of education, all schools that apply for accreditation, and approve, subject to the provisions of RCW ((~~28A-02-201~~)) 28A.195.010, private schools carrying out a program for any or all of the grades one through twelve: **PROVIDED**, That no public or private schools shall be placed upon the list of accredited schools so long as secret societies are knowingly allowed to exist among its students by school officials: **PROVIDED FURTHER**, That the state board may elect to require all or certain classifications of the public schools to conduct and participate in such pre-accreditation examination and evaluation processes as may now or hereafter be established by the board.

(7) Make rules and regulations governing the establishment in any existing nonhigh school district of any secondary program or any new grades in grades nine through twelve. Before any such program or any new grades are established the district must obtain prior approval of the state board.

(8) Prepare such outline of study for the common schools as the board shall deem necessary, and prescribe such rules for the general government of the common schools, as shall seek to secure regularity of attendance, prevent truancy, secure efficiency, and promote the true interest of the common schools.

(9) Prepare with the assistance of the superintendent of public instruction a uniform series of questions, with the proper answers thereto for use in the correcting thereof, to be used in the examination of persons, as this code may direct, and prescribe rules and regulations for conducting any such examinations.

(10) Continuously reevaluate courses and adopt and enforce regulations within the common schools so as to meet the educational needs of students and articulate with the institutions of higher education and unify the work of the public school system.

(11) Carry out board powers and duties relating to the organization and reorganization of school districts under ~~((chapter 28A.57))~~ RCW 28A.315.010 through 28A.315.680 and 28A.315.900.

(12) By rule or regulation promulgated upon the advice of the director of community development, through the director of fire protection, provide for instruction of pupils in the public and private schools carrying out a K through 12 program, or any part thereof, so that in case of sudden emergency they shall be able to leave their particular school building in the shortest possible time or take such other steps as the particular emergency demands, and without confusion or panic; such rules and regulations shall be published and distributed to certificated personnel throughout the state whose duties shall include a familiarization therewith as well as the means of implementation thereof at their particular school.

(13) Hear and decide appeals as otherwise provided by law.

The state board of education is given the authority to promulgate information and rules dealing with the prevention of child abuse for purposes of curriculum use in the common schools.

Sec. 267. Section 6, chapter 349, Laws of 1985 and RCW 28A.04.127 are each amended to read as follows:

The state board of education may grant waivers to school districts from the provisions of RCW ~~((28A.58.750 through 28A.58.754))~~ 28A.150.200 through 28A.150.220 on the basis that such waiver or waivers are necessary to implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program.

The state board shall adopt criteria to evaluate the need for the waiver or waivers.

Sec. 268. Section 217, chapter 525, Laws of 1987 and RCW 28A.04-.176 are each amended to read as follows:

In developing the standards under RCW (~~((28A.70.400 through 28A.70.408, 28A.70.040, 28A.70.042, and 28A.04.170 through 28A.04.174))~~ 28A.410.040, 28A.410.050, and 28A.410.150 through 28A.410.190, the state board of education shall review ways to strengthen program unit functions and processes to enhance cooperative agreements between public or private institutions of higher education and schools or school districts.

Sec. 269. Section 226, chapter 525, Laws of 1987 as amended by section 4, chapter 11, Laws of 1989 and RCW 28A.04.178 are each amended to read as follows:

The state board of education and the office of the superintendent of public instruction shall review the provisions of the interstate agreement on qualifications of educational personnel under chapter (~~((28A-93))~~ 28A.690 RCW, and advise the governor and the legislature on which interstate reciprocity provisions will require amendment to be consistent with RCW (~~((28A.04.170, 28A.04.172, 28A.04.174, 28A.70.040, and 28A.70.042))~~ 28A.410.040 and 28A.410.050 by January 1, 1992.

22. Educational Service Districts

Sec. 270. Section 2, chapter 176, Laws of 1969 ex. sess. as last amended by section 2, chapter 283, Laws of 1977 ex. sess. and RCW 28A-.21.020 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-21-010))~~ 28A.310.010: PROVIDED, That no reduction in the number of educational service districts will take effect 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: Size, population, topography, and climate of the proposed district.

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.

Sec. 271. Section 3, chapter 176, Laws of 1969 ex. sess. as last amended by section 14, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.030 are each amended to read as follows:

Except as otherwise provided in this chapter, in each educational service district there shall be an educational service district board consisting of seven members elected by the school directors of the educational service district, one from each of seven educational service district board-member districts. Board-member districts in districts reorganized under RCW (~~(28A.21.020)~~) 28A.310.020, or as provided for in RCW (~~(28A.21.035, as now or hereafter amended;)~~) 28A.310.120 and under this section, shall be initially determined by the state board of education. If a reorganization pursuant to RCW (~~(28A.21.020)~~) 28A.310.020 places the residence of a board member into another or newly created educational service district, such member shall serve on the board of the educational service district of residence and at the next election called by the secretary to the state board of education pursuant to RCW (~~(28A.21.031)~~) 28A.310.080 a new seven member board shall be elected. If the redrawing of board-member district boundaries pursuant to this chapter shall cause the resident board-member district of two or more board members to coincide, such board members shall continue to serve on the board and at the next election called by the secretary to the state board of education a new board shall be elected. The board-member districts shall be arranged so far as practicable on a basis of equal population, with consideration being given existing board members of existing educational service district boards. Each educational service district board member shall be elected by the school directors of each school district within the educational service district. Beginning in 1971 and every ten years thereafter, educational service district boards shall review and, if necessary, shall change the boundaries of board-member districts so as to provide so far as practicable equal representation according to population of such board-member districts and to conform to school district boundary changes: PROVIDED, That all board-member district boundaries, to the extent necessary to conform with this chapter, shall be immediately redrawn for the purposes of the next election called by the secretary to the state board of education following any reorganization pursuant to this chapter. Such district board, if failing to make the necessary changes prior to June 1 of the appropriate year, shall refer for settlement questions on board-member district boundaries to the state board of education, which, after a public hearing, shall decide such questions.

Sec. 272. Section 18, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.034 are each amended to read as follows:

Any common school district board member eligible to vote for a candidate for membership on an educational service district or any candidate for the position, within ten days after the secretary to the state board of

education's certification of election, may contest the election of the candidate pursuant to RCW (~~(28A.04.065, as now or hereafter amended)~~) 28A.305.070.

Sec. 273. Section 4, chapter 282, Laws of 1971 ex. sess. as last amended by section 21, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.035 are each amended to read as follows:

Any educational service district board which elects under RCW (~~(28A.21.0304, as now or hereafter amended,)~~) 28A.310.050 to increase the size of the educational service district board from seven to nine members, after at least four years, may elect by resolution of the board to return to a membership of seven educational service board members. In such case, at the next election a new board consisting of seven educational service board members shall be elected in accordance with the provisions of this chapter.

Sec. 274. Section 4, chapter 176, Laws of 1969 ex. sess. as last amended by section 11, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.040 are each amended to read as follows:

Every school district must be included entirely within a single educational service district. If the boundaries of any school district within an educational service district are changed in any manner so as to extend the school district beyond the boundaries of that educational service district, the state board shall change the boundaries of the educational service districts so affected in a manner consistent with the purposes of RCW (~~(28A.21.010)~~) 28A.310.010 and this section.

Sec. 275. Section 5, chapter 176, Laws of 1969 ex. sess. as last amended by section 22, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.050 are each amended to read as follows:

Every candidate for membership on a educational service district board shall be a registered voter and a resident of the board-member district for which such candidate files. On or before the date for taking office, every member shall make an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of the office according to the best of such member's ability. The members of the board shall not be required to give bond unless so directed by the state board of education. At the first meeting of newly elected members and after the qualification for office of the newly elected members, each educational service district board shall reorganize by electing a (~~(chairman)~~) chair and a vice (~~(chairman)~~) chair. A majority of all of the members of the board shall constitute a quorum.

Sec. 276. Section 11, chapter 282, Laws of 1971 ex. sess. as last amended by section 2, chapter 65, Laws of 1988 and RCW 28A.21.086 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Comply with rules or regulations of the state board of education and the superintendent of public instruction.

(2) If the district board deems necessary, establish and operate for the schools within the boundaries of the educational service district a depository and distribution center for films, tapes, charts, maps, and other instructional material as recommended by the school district superintendents within the service area of the educational service district: PROVIDED, That the district may also provide the services of the depository and distribution center to private schools within the district so long as such private schools pay such fees that reflect actual costs for services and the use of instructional materials as may be established by the educational service district board.

(3) Establish cooperative service programs for school districts within the educational service district and joint purchasing programs for schools within the educational service district pursuant to RCW (~~28A.58.107(3); as now or hereafter amended~~) 28A.320.080(3): PROVIDED, That on matters relating to cooperative service programs the board and superintendent of the educational service district shall seek the prior advice of the superintendents of local school districts within the educational service district.

(4) Establish direct student service programs for school districts within the educational service district including pupil transportation. However, for the provision of state-funded pupil transportation for special education cooperatives programs for special education conducted under (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100, the educational service district, with the consent of the participating school districts, shall be entitled to receive directly state apportionment funds for that purpose: PROVIDED, That the board of directors and superintendent of a local school district request the educational service district to perform said service or services: PROVIDED FURTHER, That the educational service district board of directors and superintendents agree to provide the requested services: PROVIDED, FURTHER, That the provisions of chapter 39.34 RCW are strictly adhered to: PROVIDED FURTHER, That the educational service district board of directors may contract with the school for the deaf and the school for the blind to provide transportation services.

Sec. 277. Section 12, chapter 282, Laws of 1971 ex. sess. as last amended by section 2, chapter 56, Laws of 1983 and RCW 28A.21.088 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) If the district board deems necessary, hold each year one or more teachers' institutes as provided for in RCW (~~28A.71.100, as now or hereafter amended;~~) 28A.415.010 and one or more school directors' meetings.

(2) Cooperate with the state supervisor of special aid for handicapped children as provided in (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100.

(3) Certify statistical data as basis for apportionment purposes to county and state officials as provided in chapter ((28A.44)) 28A.545 RCW.

(4) Perform such other duties as may be prescribed by law or rule or regulation of the state board of education and/or the superintendent of public instruction as provided in RCW ((28A.03.028)) 28A.300.030 and ((28A.04.145)) 28A.305.210.

Sec. 278. Section 9, chapter 176, Laws of 1969 ex. sess. as last amended by section 3, chapter 65, Laws of 1988 and RCW 28A.21.090 are each amended to read as follows:

In addition to other powers and duties as provided by law, every educational service district board shall:

(1) Approve the budgets of the educational service district in accordance with the procedures provided for in this chapter.

(2) Meet regularly according to the schedule adopted at the organization meeting and in special session upon the call of the ((chairman)) chair or a majority of the board.

(3) Approve the selection of educational service district personnel and clerical staff as provided in RCW ((28A.21.100, as now or hereafter amended)) 28A.310.230.

(4) Fix the amount of and approve the bonds for those educational service district employees designated by the board as being in need of bonding.

(5) Keep in the educational service district office a full and correct transcript of the boundaries of each school district within the educational service district.

(6) Acquire by purchase, lease, devise, bequest, and gift and otherwise contract for real and personal property necessary for the operation of the educational service district and to the execution of the duties of the board and superintendent thereof and sell, lease, or otherwise dispose of that property not necessary for district purposes: PROVIDED, That no real property shall be acquired or alienated without the prior approval of the state board of education.

(7) Adopt such bylaws and rules and regulations for its own operation as it deems necessary or appropriate.

(8) Enter into contracts, including contracts with common and educational service districts and the school for the deaf and the school for the blind for the joint financing of cooperative service programs conducted pursuant to RCW ((28A.21.086(3))) 28A.310.180(3), and employ consultants and legal counsel relating to any of the duties, functions, and powers of the educational service districts.

Sec. 279. Section 1, chapter 208, Laws of 1989 and RCW 28A.21.102 are each amended to read as follows:

(1) Every educational service district board shall adopt written policies granting leaves to persons under contracts of employment with the district

in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement, and emergencies for both certificated and noncertificated employees, with such compensation as the board prescribes. The board shall adopt written policies granting annual leave with compensation for illness, injury, and emergencies as follows:

(a) For persons under contract with the district for a full fiscal year, at least ten days;

(b) For persons under contract with the district as part-time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per fiscal year. Provisions of any contract in force on July 23, 1989, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation the person would have received had the person not taken the leave provided in this section;

(e) Leave provided in this section not taken shall accumulate from fiscal year to fiscal year up to a maximum of one hundred eighty days for the purposes of RCW ((28A.21.360)) 28A.310.490, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one fiscal year. Such accumulated time may be taken at any time during the fiscal year, or up to twelve days per year may be used for the purpose of payments for unused sick leave; and

(f) Accumulated leave under this section shall be transferred to educational service districts, school districts, and the office of the superintendent of public instruction, and from any such district or office to another such district or office. An intervening customary summer break in employment or the performance of employment duties shall not preclude such a transfer.

(2) Leave accumulated by a person in a district prior to leaving the district may, under rules of the board, be granted to the person when the person returns to the employment of the district.

(3) Leave for illness or injury accumulated before July 23, 1989, under the administrative practices of an educational service district, and such leave transferred before July 23, 1989, to or from an educational service district, school district, or the office of the superintendent of public instruction under the administrative practices of the district or office, is declared

valid and shall be added to such leave for illness or injury accumulated after July 23, 1989.

Sec. 280. Section 19, chapter 34, Laws of 1969 ex. sess. as last amended by section 7, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.105 are each amended to read as follows:

No certificated employee of an educational service district shall be employed as such except by written contract, which shall be in conformity with the laws of this state. Every such contract shall be made in duplicate, one copy of which shall be retained by the educational service district superintendent and the other shall be delivered to the employee.

Every educational service district superintendent or board determining that there is probable cause or causes that the employment contract of a certificated employee thereof is not to be renewed for the next ensuing term shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for the review of the decision of the hearing officer, superintendent or board and appeal therefrom shall be as prescribed for nonrenewal cases of teachers in RCW (~~28A.58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto~~) 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.

Sec. 281. Section 20, chapter 34, Laws of 1969 ex. sess. as last amended by section 8, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.106 are each amended to read as follows:

Every educational service district superintendent or board determining that there is probable cause or causes for a certificated employee or superintendent, hereinafter referred to as employee, of that educational service district to be discharged or otherwise adversely affected in his or her contract status shall notify such employee in writing of its decision, which notice shall specify the cause or causes for such action. Such notice shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. The procedure and standards for review of the decision of the superintendent or board and appeal therefrom shall be as prescribed in discharge cases of teachers in RCW (~~28A.58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto~~) 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. The board and the educational service district superintendent, respectively, shall have the duties of the

boards of directors and superintendents of school districts in RCW (~~(28A-58.450 through 28A.58.515, 28A.67.070 and 28A.88.010 and in any amendments hereafter made thereto)~~) 28A.405.210, 28A.405.300 through 28A.405.380, and 28A.645.010. Appeals may be filed in the superior court of any county in the educational service district.

Sec. 282. Section 15, chapter 75, Laws of 1974 ex. sess. as amended by section 26, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.112 are each amended to read as follows:

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Administer oaths and affirmations to school directors, teachers, and other persons on official matters connected with or relating to schools, when appropriate, but not make or collect any charge or fee for so doing.

(2) Require the oath of office of all school district officers be filed as provided in RCW (~~(28A.57.322)~~) 28A.315.500 and furnish a directory of all such officers to the county auditor and to the county treasurer of the county in which the school district is located as soon as such information can be obtained after the election or appointment of such officers is determined and their oaths placed on file.

Sec. 283. Section 16, chapter 75, Laws of 1974 ex. sess. as amended by section 27, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.113 are each amended to read as follows:

In addition to other powers and duties as provided by law, each educational service district superintendent shall:

(1) Assist the school districts in preparation of their budgets as provided in chapter (~~(28A.65)~~) 28A.505 RCW.

(2) Enforce the provisions of the compulsory attendance law as provided in (~~(chapter 28A.27)~~) RCW 28A.225.010 through 28A.225.150, 28A.200.010, and 28A.200.020.

(3) Perform duties relating to capital fund aid by nonhigh districts as provided in chapter (~~(28A.56)~~) 28A.540 RCW.

(4) Carry out the duties and issue orders creating new school districts and transfers of territory as provided in chapter (~~(28A.57)~~) 28A.315 RCW.

(5) Perform all other duties prescribed by law and the educational service district board.

Sec. 284. Section 12, chapter 176, Laws of 1969 ex. sess. as last amended by section 8, chapter 341, Laws of 1985 and RCW 28A.21.120 are each amended to read as follows:

The educational service district board shall designate the headquarters office of the educational service district. Educational service districts shall provide for their own office space, heating, contents insurance, electricity, and custodial services, which may be obtained through contracting with any board of county commissioners. Official records of the educational service

district board and superintendent, including each of the county superintendents abolished by chapter 176, Laws of 1969 ex. sess., shall be kept by the educational service district superintendent. Whenever the boundaries of any of the educational service districts are reorganized pursuant to RCW ((28A.21.020)) 28A.310.020, the state board of education shall supervise the transferral of such records so that each educational service district superintendent shall receive those records relating to school districts within the appropriate educational service district.

Sec. 285. Section 20, chapter 282, Laws of 1971 ex. sess. as last amended by section 12, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.135 are each amended to read as follows:

The superintendent of public instruction by rule and regulation shall adopt budgeting procedures for educational service districts modeled after the statutory procedures for school districts as provided in chapter ((28A.65)) 28A.505 RCW and in accordance with RCW ((28A.21.136, 28A.21.137 and 28A.21.138)) 28A.310.340, 28A.310.350, and 28A.310.360.

Sec. 286. Section 9, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.136 are each amended to read as follows:

It is the intent of the legislature that a basic core of uniform services be provided by educational service districts and be identified in statute so that biennial budget requests for educational service districts may be based upon measurable goals and needs. Educational service districts as noted in RCW ((28A.21.010)) 28A.310.010, are intended primarily to:

- (1) Provide cooperative and informational services to local districts and to perform functions for those districts when such functions are more effectively or economically administered from the regional level;
- (2) Assist the state educational agencies, office of superintendent of public instruction and the state board of education in the legal performance of their duties; and
- (3) Assist in providing pupils with equal educational opportunities.

The purpose of RCW ((28A.21.137 and 28A.21.138)) 28A.310.350 and 28A.310.360 is to further identify those core services in order to prepare educational service district budgets for the 1979-81 biennium, and those bienniums beyond.

Sec. 287. Section 11, chapter 283, Laws of 1977 ex. sess. and RCW 28A.21.138 are each amended to read as follows:

The superintendent of public instruction, pursuant to RCW ((28A.21.135, as now or hereafter amended;)) 28A.310.330 shall prepare the biennial budget request for the operation of educational service districts based upon a formula using the following factors:

- (1) The core service cost itemized in RCW ((28A.21.137)) 28A.310.350 which shall receive primary weighting for formula purposes;

(2) A weighting factor constituting a geographical factor which shall be used to weight the larger sized educational service districts for formula purposes; and

(3) A weighting factor which shall be based on the number and size of local school districts within each educational service district for formula purposes.

The sum of subsection (1) of this section, together with the weighting factors of subsections (2) and (3) of this section for each educational service district, shall reflect the variables among the educational service districts and when combined, a total budget for all educational service districts shall be the result.

Sec. 288. Section 17, chapter 176, Laws of 1969 ex. sess. as last amended by section 33, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.170 are each amended to read as follows:

The biennial budget request of each educational service district shall be approved by the respective educational service district board and then forwarded to the superintendent of public instruction for revision and approval as provided in RCW (~~28A.21.140~~) 28A.310.370.

Sec. 289. Section 21, chapter 176, Laws of 1969 ex. sess. as amended by section 36, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.21.200 are each amended to read as follows:

The county treasurer of the county in which the headquarters office of the educational service district is located shall serve as the ex officio treasurer of the district. (~~He~~) The treasurer shall keep all funds and moneys of the district separate and apart from all other funds and moneys in (~~his~~) the treasurer's custody and shall disburse such moneys only upon proper order of the educational service district board or superintendent.

Sec. 290. Section 22, chapter 176, Laws of 1969 ex. sess. and RCW 28A.21.210 are each amended to read as follows:

As of July 1, 1969, employees of the various offices of county or intermediate district superintendent and county or intermediate district board shall terminate their employment therein, or such employees, at their election, may transfer their employment to the new intermediate school district in which their respective county is located. If such employment is so transferred, each employee shall retain the same leave benefits and other benefits that he or she had in his or her previous position. If the intermediate school district has a different system of computing leave benefits and other benefits, then the employee shall be granted the same leave and other benefits as a person will receive who would have had similar occupational status and total years of service with the new intermediate school district.

Sec. 291. Section 2, chapter 210, Laws of 1977 ex. sess. as amended by section 2, chapter 508, Laws of 1987 and RCW 28A.21.310 are each amended to read as follows:

The board of any educational service district may enter into contracts for their respective districts for periods not exceeding twenty years in duration with public and private persons, organizations, and entities for the following purposes:

(1) To rent or lease building space, portable buildings, security systems, computers and other equipment; and

(2) To have maintained and repaired security systems, computers and other equipment.

The budget of each educational service district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW (~~28A.65.465 and 28A.21.135, as now or hereafter amended~~) 28A.310.330 and 28A.505.140.

23. Organization and Reorganization of School Districts

Sec. 292. Section 28A.57.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.010 are each amended to read as follows:

It is the intent and purpose of this chapter (1) to incorporate into a single, permanent, school district organization law all essential provisions governing the formation and establishment of new school districts, the alteration of the boundaries of existing districts, and the adjustment of the assets and liabilities of school districts when changes are made as aforesaid; and (2) to establish methods and procedures whereby the aforesaid changes in the school district system may be brought about by the people concerned and affected, all to the end that the territorial organization of school districts may be more readily adapted to the needs of the changing economic pattern and educational program in the state; that existing disparities among school districts in ability to provide current and capital outlay funds may be reduced and the educational opportunities of children thereby enhanced; and that a wiser use of public funds may be secured through improvement in the school district system. It is not the intent nor purpose of this chapter to apply to organizational changes and the procedure therefor relating to capital fund aid by nonhigh districts as provided for in chapter (~~28A.56~~) 28A.540 RCW.

Sec. 293. Section 28A.57.020, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 385, Laws of 1985 and RCW 28A.57.020 are each amended to read as follows:

As used in this chapter:

(1) "Change in the organization and extent of school districts" means the formation and establishment of new school districts, the dissolution of existing school districts, the alteration of the boundaries of existing school districts, or all of them.

(2) "Regional committee" means the regional committee on school district organization created by this chapter.

(3) "State board" means the state board of education.

(4) "School district" means the territory under the jurisdiction of a single governing board designated and referred to as the board of directors.

(5) "Educational service district superintendent" means the educational service district superintendent as provided for in RCW ((28A.21.071)) 28A.310.170 or his or her designee.

Sec. 294. Section 30, chapter 385, Laws of 1985 and RCW 28A.57.029 are each amended to read as follows:

Notwithstanding any other provision of this chapter to the contrary, those persons who were county committee members and registered to vote as of July 28, 1985, shall constitute the regional committee of the educational service district within which they are registered to vote until the election of the initial regional committee pursuant to this section. The initial election of members of each regional committee shall be by those persons who were county committee members registered to vote within the educational service district as of July 28, 1985. Only persons who were county committee members and so registered to vote as of July 28, 1985, shall be eligible for membership on an initial regional committee, and only those persons who are eligible for such membership and are in attendance at a meeting held for the purpose of the election shall be entitled to cast a vote. The meeting shall be held at a time and place designated and announced by the educational service district superintendent, but no later than the thirtieth day after July 28, 1985. The educational service district superintendent shall preside over the meeting. Nominations shall be from the floor and shall be for position numbers assigned by the educational service district superintendent for the purpose of the initial election and all subsequent elections held pursuant to RCW ((28A.57.032)) 28A.315.060. Members of each initial regional committee shall be elected by majority vote and shall serve for the staggered terms of office set forth in RCW ((28A.57.032)) 28A.315.060 and until their successors are certified as elected pursuant to RCW ((28A.57.032)) 28A.315.060.

Sec. 295. Section 1, chapter 15, Laws of 1975-'76 2nd ex. sess. as amended by section 4, chapter 385, Laws of 1985 and RCW 28A.57.032 are each amended to read as follows:

The members of each regional committee shall be elected in the following manner:

(1) On or before the 25th day of September, 1986, and not later than the 25th day of September of every subsequent year, each superintendent of an educational service district shall call an election to be held in each educational service district within which resides a member of a regional committee whose term of office expires on the second Monday of January next following, and shall give written notice thereof to each member of the board

of directors of each school district in the educational service district. Such notice shall include instructions, and the rules and regulations established by the state board of education for the conduct of the election. The state board of education is hereby empowered to adopt rules pursuant to chapter 34.05 RCW which establish standards and procedures which the state board deems necessary to conduct elections pursuant to this section; to conduct run-off elections in the event an election for a position is indecisive; and to decide run-off elections which result in tie votes, in a fair and orderly manner.

(2) Candidates for membership on a regional committee shall file a declaration of candidacy with the superintendent of the educational service district wherein they reside. Declarations of candidacy may be filed by person or by mail not earlier than the 1st day of October, and not later than the 15th day of October. The superintendent may not accept any declaration of candidacy that is not on file in his or her office or not postmarked before the 16th day of October, or if not postmarked or the postmark is not legible, if received by mail after the 20th day of October.

(3) Each member of the regional committee shall be elected by a majority of the votes cast for all candidates for the position by the members of the boards of directors of school districts in the educational service district. All votes shall be cast by mail ballot addressed to the superintendent of the educational service district wherein the school director resides. No votes shall be accepted for counting if postmarked after the 16th day of November or if not postmarked or the postmark is not legible, if received by mail after the 21st day of November. An election board comprised of three persons appointed by the board of the educational service district shall count and tally the votes not later than the 25th day of November or the next business day if the 25th falls on a Saturday, Sunday, or legal holiday. Each vote cast by a school director shall be recorded as one vote. Within ten days following the count of votes, the educational service district superintendent shall certify to the superintendent of public instruction the name or names of the person(s) elected to be members of the regional committee.

(4) In the event of a change in the number of educational service districts or in the number of educational service district board members pursuant to chapter (~~(28A.21)~~) 28A.310 RCW a new regional committee shall be elected for each affected educational service district at the next annual election conducted pursuant to this section. Those persons who were serving on a regional committee within an educational service district affected by a change in the number of districts or board members shall continue to constitute the regional committee for the educational service district within which they are registered to vote until the majority of a new board has been elected and certified.

(5) No member of a regional committee shall continue to serve thereon if he or she ceases to be a registered voter of the educational service district

board member district or if he or she is absent from three consecutive meetings of the committee without an excuse acceptable to the committee.

Sec. 296. Section 28A.57.034, chapter 223, Laws of 1969 ex. sess. as amended by section 6, chapter 385, Laws of 1985 and RCW 28A.57.034 are each amended to read as follows:

The terms of members of the regional committees shall be for five years and until their successors are elected. As nearly as possible one-fifth of the members shall be elected annually. For the initial election conducted pursuant to RCW ((28A.57.029)) 28A.315.030 and the election of a new regional committee following a change in the number of educational service districts or board members, regional committee member positions one and six shall be for a term of five years, positions two and seven shall be for a term of four years, positions three and eight shall be for a term of three years, positions four and nine shall be for a term of two years, and position five shall be for a term of one year.

Sec. 297. Section 28A.57.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 8, chapter 385, Laws of 1985 and RCW 28A.57.040 are each amended to read as follows:

Each regional committee shall organize by electing from its membership a ((chairman)) chair and a vice ((chairman)) chair. The educational service district superintendent shall be the secretary of the committee. Meetings of the committee shall be held upon call of the ((chairman)) chair or of a majority of the members thereof. A majority of the committee shall constitute a quorum.

Sec. 298. Section 2, chapter 15, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 100, Laws of 1987 and RCW 28A.57.050 are each amended to read as follows:

The powers and duties of each regional committee shall be:

(1) To initiate, on its own motion and whenever it deems such action advisable, proposals or alternate proposals for changes in the organization and extent of school districts in the educational service district; to receive, consider, and revise, whenever in its judgment revision is advisable, proposals initiated by petition or presented to the committee by the educational service district superintendent as provided for in this chapter; to prepare and submit to the state board any of the aforesaid proposals that are found by the regional committee to provide for satisfactory improvement in the school district system of the educational service district and state; to prepare and submit with the aforesaid proposals, a map showing the boundaries of existing school districts affected by any proposed change and the boundaries, including a description thereof, of each proposed new school district or of each existing school district as enlarged or diminished by any proposed change, or both, and a summary of the reasons for the proposed change;

and such other reports, records, and materials as the state board may request. The committee may utilize as a basis of its proposals and changes that comprehensive plan for changes in the organization and extent of the school districts of the county prepared and submitted to the state board prior to September 1, 1956, or, if the then county committee found, after considering the factors listed in RCW (~~28A.57.055~~) 28A.315.120, that no changes in the school district organization of the county were needed, the report to this effect submitted to the state board.

(2) (a) To make an equitable adjustment of the property and other assets and of the liabilities, including bonded indebtedness and excess tax levies as otherwise authorized under this section, as to the old school districts and the new district or districts, if any, involved in or affected by a proposed change in the organization and extent of the school districts; and (b) to make an equitable adjustment of the bonded indebtedness outstanding against any of the aforesaid districts whenever in its judgment such adjustment is advisable, as to all of the school districts involved in or affected by any change heretofore or hereafter effected; and (c) to provide that territory transferred from a school district by a change in the organization and extent of school districts shall either remain subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory from the school district; and (d) to provide that territory transferred to a school district by a change in the organization and extent of school districts shall either be made subject to, or be relieved of, any one or more excess tax levies which are authorized for the school district under RCW 84.52.053 before the effective date of the transfer of territory to the school district; and (e) to submit to the state board the proposed terms of adjustment and a statement of the reasons therefor in each case. In making the adjustments herein provided for, the regional committee shall consider the number of children of school age resident in and the assessed valuation of the property located in each school district and in each part of a district involved or affected; the purpose for which the bonded indebtedness of any school district was incurred; the value, location, and disposition of all improvements located in the school districts involved or affected; and any other matters which in the judgment of the committee are of importance or essential to the making of an equitable adjustment.

(3) To hold and keep a record of a public hearing or public hearings (a) on every proposal for the formation of a new school district or for the transfer from one existing district to another of any territory in which children of school age reside or for annexation of territory when the conditions set forth in RCW (~~28A.57.190 or 28A.57.200~~) 28A.315.290 or 28A.315.320 prevail; and (b) on every proposal for adjustment of the assets and of the liabilities of school districts provided for in this chapter. Three members of the regional committee or two members of the committee and

the educational service district superintendent may be designated by the committee to hold any public hearing that the committee is required to hold. The regional committee shall cause notice to be given, at least ten days prior to the date appointed for any such hearing, in one or more newspapers of general circulation within the geographical boundaries of the school districts affected by the proposed change or adjustment. In addition notice may be given by radio and television, or either thereof, when in the committee's judgment the public interest will be served thereby.

(4) To divide into five school directors' districts all first and second class school districts now in existence and not heretofore so divided and all first and second class school districts hereafter established: PROVIDED, That no first or second class school district not heretofore so divided and no first or second class school district hereafter created containing a city with a population in excess of seven thousand according to the latest population certificate filed with the secretary of state by the office of financial management shall be divided into directors' districts unless a majority of the registered voters voting thereon at an election shall approve a proposition authorizing the division of the district into directors' districts. The boundaries of each directors' district shall be so established that each such district shall comprise as nearly as practicable an equal portion of the population of the school district.

(5) To rearrange at any time the committee deems such action advisable in order to correct inequalities caused by changes in population and changes in school district boundaries, the boundaries of any of the directors' districts of any school district heretofore or hereafter so divided: PROVIDED, That a petition therefor, shall be required for rearrangement in order to correct inequalities caused by changes in population. Said petition shall be signed by at least ten registered voters residing in the aforesaid school district, and shall be presented to the educational service district superintendent. A public hearing thereon shall be held by the regional committee, which hearing shall be called and conducted in the manner prescribed in subsection (3) of this section.

(6) To prepare and submit to the superintendent of public instruction from time to time or, upon his or her request, reports and recommendations respecting the urgency of need for school plant facilities, the kind and extent of the facilities required, and the development of improved local school administrative units and attendance areas in the case of school districts that seek state assistance in providing school plant facilities.

Sec. 299. Section 28A.57.055, chapter 223, Laws of 1969 ex. sess. as amended by section 10, chapter 385, Laws of 1985 and RCW 28A.57.055 are each amended to read as follows:

Each regional committee, in carrying out the purposes of RCW ((28A.57.050)) 28A.315.110, shall base its judgment and recommendations,

if any, to the state board of education, upon such standards and considerations as are established by the state board of education pursuant to chapter 34.05 RCW for the preparation of recommended changes in the organization and extent of school districts and terms of adjustment as provided for in RCW ((28A.57.050)) 28A.315.110. Such rules and regulations shall provide for giving consideration: (1) To equalization of the educational opportunities of pupils and to economies in the administration and operation of schools through the formation of larger units of administration and areas of attendance; (2) to equalization among school districts of the tax burden for general fund and capital purposes through a reduction in disparities in per-pupil valuation; (3) to geographical and other features, including, but not limited to such physical characteristics as mountains, lakes and rivers, waste land, climatic conditions, highways, and means of transportation; (4) to the convenience and welfare of pupils, including but not limited to remoteness or isolation of their places of residence and time required to travel to and from school; (5) to improvement of the educational opportunities of pupils through improvement and extension of school programs and through better instruction facilities, equipment, materials, libraries, and health and other services; (6) to equalization of the burden of financing the cost of high school facilities through extension of the boundaries of high school districts to include within each such district all of the territory served by the high school located therein: PROVIDED, That a nonhigh school district may be excluded from a plan if such district is found by the regional committee and the state board to be so situated with respect to location, present and clearly foreseeable future population, and other pertinent factors as to warrant the establishment and operation of a high school therein or the inclusion of its territory in a new district formed for the purpose of establishing and operating a high school; (7) to the future effective utilization of existing satisfactory school buildings, sites, and playfields; the adequacy of such facilities located in the proposed new district; and additional facilities required if such proposed district is formed; and (8) to any other matters which in the judgment of the state board of education are related to or may operate to further equalization and improvement of school facilities and services, economies in operating and capital fund expenditures, and equalization among school districts of tax rates for school purposes.

Sec. 300. Section 28A.57.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 100, Laws of 1987 and RCW 28A.57-.060 are each amended to read as follows:

The powers and duties of the state board with respect to this chapter shall be:

(1) To aid regional committees in the performance of their duties by furnishing them with plans of procedure, standards, data, maps, forms, and

other necessary materials and services essential to a study and understanding of the problems of school district organization in their respective educational service districts.

(2) To receive, file, and examine the proposals and the maps, reports, records, and other materials relating thereto submitted by regional committees and to approve such proposals and so notify the regional committees when said proposals are found to provide for satisfactory improvement in the school district system of the counties and the state and for an equitable adjustment of the assets and liabilities, including bonded indebtedness and excess tax levies as authorized under RCW ((28A.52.050(2))) 28A.315.110(2), of the school districts involved or affected: PROVIDED, That whenever the state board approves a recommendation from a regional committee for the transfer of territory from one school district to another school district, such state board approval must be made not later than March 1 of any given year for implementation the school year immediately following: PROVIDED FURTHER, That whenever such proposals are found by the state board to be unsatisfactory or inequitable, the board shall so notify the regional committee and, upon request, assist the committee in making revisions which revisions shall be resubmitted within sixty days after such notification for reconsideration and approval or disapproval. Implementation of state board-approved transfers of territory from one school district to another school district shall become effective at the commencement of the next school year unless an earlier implementation is agreed upon in writing by the boards of directors of the affected school districts.

Sec. 301. Section 28A.57.070, chapter 223, Laws of 1969 ex. sess. as last amended by section 13, chapter 385, Laws of 1985 and RCW 28A.57.070 are each amended to read as follows:

Upon receipt by a regional committee of such notice from the state board as is required in RCW ((28A.57.060(2))) 28A.315.140(2), the educational service district superintendent shall make an order establishing all approved changes involving the alteration of the boundaries of an established school district or districts and all approved terms of adjustment of assets and liabilities involving an established district or districts the boundaries of which have been or are hereafter altered in the manner provided by law, and shall certify his or her action to each county auditor for the board of county commissioners, each county treasurer, each county assessor and the superintendents of all school districts affected by such action. Upon receipt of such certification the superintendent of each school district which is annexed to another district by the action shall deliver to the superintendent of the school district to which annexed all books, papers, documents, records, and other materials pertaining to his or her office.

Sec. 302. Section 28A.57.080, chapter 223, Laws of 1969 ex. sess. as last amended by section 15, chapter 385, Laws of 1985 and RCW 28A.57.080 are each amended to read as follows:

Notice of such special elections as provided for in RCW ((~~28A.57-075~~) 28A.315.160) shall be given by the county auditor as in RCW ~~29.27-.080~~ provided. The notice of election shall state the purpose for which the election has been called and shall contain a description of the boundaries of the proposed new district and a statement of any terms of adjustment of bonded indebtedness to be voted on.

Sec. 303. Section 28A.57.090, chapter 223, Laws of 1969 ex. sess. as last amended by section 16, chapter 385, Laws of 1985 and RCW 28A.57-.090 are each amended to read as follows:

Whenever a special election is held to vote on a proposal or alternate proposals to form a new school district, the votes cast by the registered voters in each component district shall be tabulated separately and any such proposition shall be considered approved only if it receives a majority of the votes cast in each separate district voting thereon. Whenever a special election is held to vote on a proposal for adjustment of bonded indebtedness the entire vote cast by the registered voters of the proposed new district or of the established district as the case may be shall be tabulated and any such proposition shall be considered approved if sixty percent or more of all votes cast thereon are in the affirmative.

In the event of approval of a proposition or propositions voted on at a special election, the educational service district superintendent shall: (1) Make an order establishing such new school district or such terms of adjustment of bonded indebtedness or both, as were approved by the registered voters and shall also order effected such other terms of adjustment, if there be any, of property and other assets and of liabilities other than bonded indebtedness as have been approved by the state board; and (2) certify his or her action to the county and school district officials specified in RCW ((~~28A.57.070~~) 28A.315.150). He or she may designate, with the approval of the superintendent of public instruction, a name and number different from that of any component thereof but must designate the new district by name and number different from any other district in existence in the county.

The educational service district superintendent shall fix, as the effective date of any order or orders he or she is required by this chapter to make, a date no later than the first day of September next succeeding the date of final approval of any change in the organization and extent of school districts or of any terms of adjustment of the assets and liabilities of school districts subject, for taxing purposes, to the redrawing of taxing district boundaries pursuant to RCW 84.09.030.

Upon receipt of the aforesaid certification, the superintendent of each school district which is included in the new district shall deliver to the superintendent of the new school district all books, papers, documents, records and other materials pertaining to his or her office.

Sec. 304. Section 28A.57.110, chapter 223, Laws of 1969 ex. sess. as amended by section 18, chapter 385, Laws of 1985 and RCW 28A.57.110 are each amended to read as follows:

The superintendent of public instruction shall furnish to the state board and to regional committees the services of employed personnel and the materials and supplies necessary to enable them to perform the duties imposed upon them by this chapter and shall reimburse the members thereof for expenses necessarily incurred by them in the performance of their duties, such reimbursement for regional committee members to be in accordance with RCW (~~28A.57.035, as now or hereafter amended~~) 28A.315.090, and such reimbursement for state board members to be in accordance with RCW (~~28A.04.110~~) 28A.305.120.

Sec. 305. Section 28A.57.120, chapter 223, Laws of 1969 ex. sess. as amended by section 34, chapter 3, Laws of 1983 and RCW 28A.57.120 are each amended to read as follows:

An appeal may be taken, as provided for in RCW (~~28A.88.010~~) 28A.645.010, to the superior court of the county in which a school district or any part thereof is situated on any question of adjustment of property and other assets and of liabilities provided for in this chapter. If the court finds the terms of the adjustment in question not equitable, the court shall make an adjustment that is equitable.

Sec. 306. Section 3, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.57.140 are each amended to read as follows:

Any school district in the state having a student enrollment within the public schools of such district of two thousand pupils or more, as shown by any regular census as required under RCW (~~28A.58.150(4), as now or hereafter amended~~;) 28A.400.030(4) or by any other evidence acceptable to the educational service district superintendent and the superintendent of public instruction, shall be a school district of the first class. Any other school district shall be a school district of the second class.

Whenever the educational service district superintendent finds that the classification of a school district should be changed, and upon the approval of the superintendent of public instruction, he or she shall make an order in conformity with his or her findings and alter the records of his or her office accordingly. Thereafter the board of directors of the district shall organize in the manner provided by law for the organization of the board of a district of the class to which said district then belongs.

Sec. 307. Section 1, chapter 63, Laws of 1972 ex. sess. and RCW 28A.57.195 are each amended to read as follows:

Notwithstanding other provisions of this chapter or any other provision of law and except as otherwise provided in RCW (~~28A.57.196~~) 28A.315.310, as of July 1, 1972, any United States military reservation in the state of Washington with more than two thousand five hundred common

school age children in public schools resident thereon shall be included wholly within the boundaries of a single school district. Such single school district shall be one of the school districts presently having boundary lines within such military reservation and serving pupils thereon. The procedure for achieving such single school districts where they do not now exist, or in any year in the future when there are more than two thousand five hundred common school age children on such a military reservation resident therein, shall be as prescribed in RCW (~~(28A.57.196)~~) 28A.315.310.

Sec. 308. Section 2, chapter 63, Laws of 1972 ex. sess. as amended by section 23, chapter 385, Laws of 1985 and RCW 28A.57.196 are each amended to read as follows:

On or before June 1, 1972, or in any year in the future when there are more than two thousand five hundred common school age children on a military reservation as referred to in RCW (~~(28A.57.195)~~) 28A.315.300 resident therein, whichever is the case, and notwithstanding other provisions of this chapter or any other provision of law, the regional committee of each educational service district in which such a United States military reservation is located, or in the case such military reservation is located in two or more educational service districts, the joint regional committee established pursuant to RCW (~~(28A.57.240)~~) 28A.315.360, shall order effective September 1 of the then calendar year the annexation of portions of reservation territory not currently within the single school district, as required by RCW (~~(28A.57.195)~~) 28A.315.300, to one of the school districts encompassing a portion of the military reservation: PROVIDED, That notwithstanding any other provision of RCW (~~(28A.57.195 and 28A.57.196)~~) 28A.315.300 and 28A.315.310 the annexation order shall not include territory of school districts on such military reservations in which none or less than a majority of the pupils residing within that portion of the district within such military reservation have one or more parents serving in the military and under such military command. Notwithstanding any other provision of law, the decision as to which school district shall serve the pupils residing within such military reservation shall rest solely with the regional committee of the educational service district in which the affected military reservation is located. The regional committee shall order such equitable transfer of assets and liabilities as is deemed necessary for the orderly transfer of the territory in accordance with transfers in other annexation proceedings authorized under this chapter.

Sec. 309. Section 28A.57.230, chapter 223, Laws of 1969 ex. sess. as amended by section 1, chapter 47, Laws of 1973 and RCW 28A.57.230 are each amended to read as follows:

Any school district composed of territory lying in more than one county shall be known as a joint school district, and shall be designated by number in accordance with rules and regulations promulgated under RCW (~~(28A.04.130)~~) 28A.305.150.

Sec. 310. Section 28A.57.245, chapter 223, Laws of 1969 ex. sess. as last amended by section 26, chapter 385, Laws of 1985 and RCW 28A.57-.245 are each amended to read as follows:

Whenever a proposed change in the organization and extent of school districts or an adjustment of the assets and liabilities of school districts, or both, or any other matters related to such change or adjustment involve school districts in two or more educational service districts, and a majority of at least one of the regional committees involved approve a proposal but the proposal is not approved by the other regional committee or committees or one or more of said committees fails or refuses to act upon the proposal within sixty days of its receipt, the regional committee or committees approving the proposal shall certify the proposal and its approval to the state superintendent of public instruction. Upon receipt of a properly certified proposal, the state superintendent of public instruction shall appoint a temporary committee composed of five persons. The members of the temporary committee shall be selected from the membership of any regional committee in this state except that no member shall be appointed from any educational service district in which there is situated a school district that would be affected by the proposed change. Said committee shall meet at the call of the state superintendent of public instruction and organize by electing a ((chairman)) chair and secretary. Thereupon, this temporary committee shall have jurisdiction of the proposal and shall treat the same as a proposal initiated on its own motion. Said committee shall have the powers and duties imposed upon and required to be performed by a regional committee under the provisions of this chapter and the secretary of the committee shall have the powers and duties imposed upon and required to be performed by the educational service district superintendents under the provisions of this chapter. It shall be the duty of the educational service district superintendents of the educational service districts in which the school districts that would be affected by the proposed change are situated to assist the temporary committee by supplying said committee with information from the records and files of their offices and with a proper and suitable place for holding meetings.

Sec. 311. Section 28A.57.255, chapter 223, Laws of 1969 ex. sess. as last amended by section 6, chapter 56, Laws of 1983 and RCW 28A.57.255 are each amended to read as follows:

The registered voters residing within a joint school district shall be entitled to vote on the office of school director of their district.

Jurisdiction of any such election shall rest with the county auditor of the county administering such joint district as provided in RCW ((28A.57-250)) 28A.315.380.

At each general election, or upon approval of a request for a special election as provided for in RCW 29.13.020, such county auditor shall:

- (1) See that there shall be at least one polling place in each county;

(2) At least twenty days prior to the elections concerned, certify in writing to the superintendent of the school district the number and location of the polling places established by such auditor for such regular or special elections; and

(3) Do all things otherwise required by law for the conduct of such election.

It is the intention of this section that the qualified electors of a joint school district shall not be forced to go to a different polling place on the same day when other elections are being held to vote for school directors of their district.

Sec. 312. Section 28A.57.260, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 47, Laws of 1973 and RCW 28A.57.260 are each amended to read as follows:

A vacancy in the office of director of a joint district shall be filled in the manner provided by RCW (~~(28A.57.326)~~) 28A.315.530 for filling vacancies, such appointment to be valid only until a director is elected and qualified to fill such vacancy at the next regular district election.

Sec. 313. Section 28A.57.280, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.280 are each amended to read as follows:

It shall be the duty of the assessor of each county, a part of which is included within a joint school district, to certify annually to the auditor of ~~((his))~~ the assessor's county and to the auditor of the county to which the joint district belongs, for the board of county commissioners thereof, the aggregate assessed valuation of all taxable property in ~~((his))~~ the assessor's county situated in such joint school district, as the same appears from the last assessment roll of ~~((his))~~ the assessor's county.

Sec. 314. Section 28A.57.322, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 187, Laws of 1988 and RCW 28A.57.322 are each amended to read as follows:

Every person elected or appointed to the office of school director, before entering upon the discharge of the duties thereof, shall take an oath or affirmation to support the Constitution of the United States and the state of Washington and to faithfully discharge the duties of ~~((his))~~ the office according to the best of his or her ability. In case any official has a written appointment or commission, ~~((his))~~ the official's oath or affirmation shall be endorsed thereon and sworn to before any officer authorized to administer oaths. School officials are hereby authorized to administer all oaths or affirmations pertaining to their respective offices without charge or fee. All oaths of office, when properly made, shall be filed with the county auditor. Every person elected to the office of school director shall begin his or her term of office at the first official meeting of the board of directors following certification of the election results.

Sec. 315. Section 28A.57.324, chapter 223, Laws of 1969 ex. sess. as last amended by section 35, chapter 3, Laws of 1983 and RCW 28A.57.324 are each amended to read as follows:

Regular meetings of the board of directors of any school district shall be held monthly or ~~((oftener))~~ more often at such a time as the board of directors by resolution shall determine or the bylaws of the board may prescribe. Special or deferred meetings may be held from time to time as circumstances may demand, at the call of the president, if a first class district, or the ~~((chairman))~~ chair of the board, if a second class district, or on petition of a majority of the members of the board. All meetings shall be open to the public unless the board shall otherwise order an executive session as provided in RCW 42.30.110.

Sec. 316. Section 5, chapter 15, Laws of 1975-'76 2nd ex. sess. as last amended by section 2, chapter 35, Laws of 1980 and RCW 28A.57.328 are each amended to read as follows:

Upon the establishment of a new school district of the second class, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in any such new second class school district, they shall become directors of said district, and the educational service district board shall appoint the number of additional directors required to constitute a board of five directors for the new second class district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than five in a second class district, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of other districts of the same class. Each initial director shall hold office until his or her successor is elected and qualified: PROVIDED, That the election of the successor shall be held during the second district general election after the initial directors have assumed office. At such election, no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. Directors thereafter elected and qualified shall serve such terms as provided for in RCW ~~((28A.57.312, as now or hereafter amended))~~ 28A.315.450.

Sec. 317. Section 28A.57.334, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.334 are each amended to read as follows:

Whenever the directors to be elected in a school district that is not divided into directors' districts are not all to be elected for the same term of years, the county auditor shall distinguish them and designate the same as provided for in RCW 29.21.140, and assign position numbers thereto as

provided in RCW (~~(28A.57.314)~~) 28A.315.470 and each candidate shall indicate on his or her declaration of candidacy the term for which he or she seeks to be elected and position number for which he or she is filing. The candidate receiving the largest number of votes for each position shall be deemed elected.

Sec. 318. Section 28A.57.336, chapter 223, Laws of 1969 ex. sess. as amended by section 11, chapter 131, Laws of 1969 and RCW 28A.57.336 are each amended to read as follows:

Any first class school district having a board of directors of five members as provided in RCW (~~(28A.57.312)~~) 28A.315.450 and which elects directors for a term of six years under the provisions of RCW 29.13.060 shall cause the office of at least one director and no more than two directors to be up for election at each regular school district election held hereafter and, except as provided in RCW (~~(28A.57.435)~~) 28A.315.680, any first class school district having a board of directors of seven members as provided in RCW (~~(28A.57.312)~~) 28A.315.450 shall cause the office of two directors and no more than three directors to be up for election at each regular school district election held hereafter.

Sec. 319. Section 28A.57.342, chapter 223, Laws of 1969 ex. sess. as last amended by section 27, chapter 385, Laws of 1985 and RCW 28A.57.342 are each amended to read as follows:

Whenever an election shall be held for the purpose of securing the approval of the voters for the formation of a new school district other than a school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties, if requested by one of the boards of directors of the school districts affected, there shall also be submitted to the voters at the same election a proposition to authorize the regional committee to divide the school district, if formed, into directors' districts. Such director districts in second class districts, if approved, shall not become effective until the regular school election following the next regular school election at which time a new board of directors shall be elected as provided in RCW (~~(28A.57.328)~~) 28A.315.550. Such director districts in first class districts, if approved, shall not become effective until the next regular school election at which time a new board of directors shall be elected as provided in RCW (~~(28A.57.355, 28A.57.356, and 28A.57.357)~~) 28A.315.600, 28A.315.610, and 28A.315.620. Each of the five directors shall be elected from among the residents of the respective director district by the electors of the entire school district.

Sec. 320. Section 3, chapter 67, Laws of 1971 as last amended by section 3, chapter 35, Laws of 1980 and RCW 28A.57.355 are each amended to read as follows:

Upon the establishment of a new school district of the first class as provided for in RCW (~~(28A.57.342)~~) 28A.315.580 containing no former

first class district, the directors of the old school districts who reside within the limits of the new district shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. If fewer than five such directors reside in such new district, they shall become directors of said district and the educational service district board shall appoint the number of additional directors to constitute a board of five directors for the district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected for a term of three years and three directors shall be elected for a term of six years.

Sec. 321. Section 6, chapter 15, Laws of 1975-'76 2nd ex. sess. as last amended by section 4, chapter 35, Laws of 1980 and RCW 28A.57.356 are each amended to read as follows:

Upon the establishment of a new school district of the first class as provided for in RCW (~~28A.57.342, as now or hereafter amended;~~) 28A.315.580 containing only one former first class district, the directors of the former first class district and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies, once such a board has been reconstituted, shall not be filled unless the number of remaining board members is less than five, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and authority conferred by law upon boards of directors of first class school districts until the next regular school election in the district at which election their successors shall be elected and qualified. At such election no more than five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years: PROVIDED, That if such first class district is in a class AA or class A county and contains a city of the first class, two directors shall be elected

for a term of three years and three directors shall be elected for a term of six years.

Sec. 322. Section 2, chapter 47, Laws of 1980 as amended by section 5, chapter 35, Laws of 1980 and RCW 28A.57.357 are each amended to read as follows:

Upon the establishment of a new school district of the first class as provided for in RCW (~~28A.57.342, as now or hereafter amended;~~) 28A.315.580 containing more than one former first class district, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Each board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all of the powers and authority conferred by law upon boards of first class districts until the next regular school election and until their successors are elected and qualified. At such election other than districts electing directors for six-year terms as provided in RCW 29.13.060, as now or hereafter amended, five directors shall be elected either at large or by director districts, as the case may be, two for a term of two years and three for a term of four years. At such election for districts electing directors for six years other than a district having within its boundaries a city with a population of four hundred thousand people or more in class AA counties and electing directors for six year terms, five directors shall be elected either at large or by director districts, as the case may be, one for a term of two years, two for a term of four years, and two for a term of six years.

Sec. 323. Section 3, chapter 47, Laws of 1980 as amended by section 6, chapter 35, Laws of 1980 and RCW 28A.57.358 are each amended to read as follows:

Upon the establishment of a new school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties, the directors of the largest former first class district and three directors representative of the other former first class districts selected by a majority of the board members of the former first class districts and two directors representative of former second class districts selected by a majority of the board members of former second class districts shall meet at the call of the educational service district superintendent and shall constitute the board of directors of the new district. Each

board of directors so constituted shall proceed at once to organize in the manner prescribed by law and thereafter shall have all the powers and duties conferred by law upon boards of first class districts, until the next regular school election and until their successors are elected and qualified. Such duties shall include establishment of new director districts as provided for in RCW (~~(28A.57.425, as now or hereafter amended)~~) 28A.315.670. At the next regular school election seven directors shall be elected by director districts, two for a term of two years, two for a term of four years and three for a term of six years. Thereafter their terms shall be as provided in RCW (~~(28A.57.313)~~) 28A.315.460.

Vacancies once such a board has been reconstituted shall not be filled unless the number of remaining board members is less than seven, and such vacancies shall be filled in the manner otherwise provided by law.

Sec. 324. Section 28A.57.390, chapter 223, Laws of 1969 ex. sess. as last amended by section 29, chapter 385, Laws of 1985 and RCW 28A.57-.390 are each amended to read as follows:

Each educational service district superintendent shall prepare and keep in his or her office (1) a map showing the boundaries of the directors' districts of all school districts in or belonging to his or her educational service district that are so divided, and (2) a record of the action taken by the regional committee in establishing such boundaries.

Sec. 325. Section 28A.57.410, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.410 are each amended to read as follows:

Whenever all directors to be elected in a school district that is divided into directors' districts are not all to be elected for the same term of years, the county auditor, prior to the date set by law for filing a declaration of candidacy for the office of director, shall determine by lot the directors' districts from which directors shall be elected for a term of two years and the directors' districts from which directors shall be elected for a term of four years. Each candidate shall indicate on his or her declaration of candidacy the directors' district from which he or she seeks to be elected.

Sec. 326. Section 9, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.57.415 are each amended to read as follows:

Upon receipt of a written petition by an educational service district superintendent signed by at least twenty percent of the registered voters of a school district theretofore divided into directors' districts after a majority vote thereon in accordance with RCW (~~(28A.57.050(4), as now or hereafter amended)~~) 28A.315.110(4), which petition shall request a return to the system of directors running at large within the district, the superintendent, after formation of the question to be submitted to the voters, shall give notice thereof to the county auditor who shall call and hold a special election of the voters of the entire school district to approve or reject such proposal,

such election to be called, conducted and the returns canvassed as in regular school district elections.

If approval of a majority of those registered voters voting in said election is acquired, at the expiration of terms of the incumbent directors of such school district their successors shall be elected at large.

Sec. 327. Section 9, chapter 131, Laws of 1969 as last amended by section 6, chapter 183, Laws of 1979 ex. sess. and RCW 28A.57.425 are each amended to read as follows:

Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board and approved by the county committee on school district organization, such boundaries to be established so that each such district shall comprise, as nearly as practicable, an equal portion of the population of the school district. Boundaries of such director districts shall be adjusted by the school board and approved by the county committee after each federal decennial census if population change shows the need thereof to comply with the equal population requirement above. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon in the primary election by the registered voters of that particular director district: PROVIDED, That if not more than one person files a declaration of candidacy for the position of school director in any director district, no primary election shall be held in that district, and such candidate's name alone shall appear on the ballot for the director district position at the general election. The name of the person who receives the greatest number of votes and the name of the person who receives the next greatest number of votes at the primary for each director district position shall appear on the general election ballot under such position and shall be voted upon by all the registered voters in the school district. Except as provided in RCW (~~(28A.57.435, as now or hereafter amended)~~) 28A.315.680, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in RCW (~~(28A.57.313)~~) 28A.315.460.

Sec. 328. Section 10, chapter 131, Laws of 1969 as last amended by section 36, chapter 3, Laws of 1983 and RCW 28A.57.435 are each amended to read as follows:

Within thirty days after March 25, 1969, the school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties

shall establish the director district boundaries and obtain approval thereof by the county committee on school district organization. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW (~~(28A.57.312, 28A.57.336, 28A.57.425, 28A.57.435, 28A.57.313)~~) 28A.315.450, 28A.315.460, 28A.315.570, 28A.315.670, 28A.315.680, 29.21.180, and 29.21.210(~~(; each as now or hereafter amended)~~).

Sec. 329. Section 38, chapter 385, Laws of 1985 and RCW 28A.57.900 are each amended to read as follows:

Any proceeding or hearing now or hereafter initiated, being considered, or in progress pursuant to this chapter as of July 28, 1985, or thereafter which is interrupted by a change in committee membership by chapter 385, Laws of 1985 shall continue and be assumed and decided with equal force and effect by the initial regional committees and all other successor committees provided for in RCW (~~(28A.57.032 and 28A.57.055)~~) 28A.315.060 and 28A.315.120; PROVIDED, That such committees may elect to reconduct proceedings on hearings already in progress and shall reconduct wholly or partially completed hearings required pursuant to this chapter unless the majority of the committee deciding the matter have either read or heard previously submitted testimony and evidence.

24. Provisions Applicable to All Districts

A. District Powers

Sec. 330. Section 2, chapter 142, Laws of 1972 ex. sess. as amended by section 116, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.58.630 are each amended to read as follows:

Any school district board of directors and educational service district board are authorized to purchase insurance to protect and hold personally harmless any director, officer, employee or agent of the respective school district or educational service district from any action, claim or proceeding instituted against him or her arising out of the performance or failure of performance of duties for or employment with such institution and to hold him or her harmless from any expenses connected with the defense, settlement or monetary judgments from such actions.

Sec. 331. Section 28A.58.107, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 77, Laws of 1986 and RCW 28A.58.107 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Provide for the expenditure of a reasonable amount for suitable commencement exercises;

(2) In addition to providing free instruction in lip reading for children handicapped by defective hearing, make arrangements for free instruction in lip reading to adults handicapped by defective hearing whenever in its judgment such instruction appears to be in the best interests of the school district and adults concerned;

(3) Join with boards of directors of other school districts or an educational service district pursuant to RCW (~~28A.21.086(3)~~, as now or hereafter amended)) 28A.310.180(3), or both such school districts and educational service district in buying supplies, equipment and services by establishing and maintaining a joint purchasing agency, or otherwise, when deemed for the best interests of the district, any joint agency formed hereunder being herewith authorized and empowered to issue interest bearing warrants in payment of any obligation owed: PROVIDED, HOWEVER, That those agencies issuing interest bearing warrants shall assign accounts receivable in an amount equal to the amount of the outstanding interest bearing warrants to the county treasurer issuing such interest bearing warrants: PROVIDED FURTHER, That the joint purchasing agency shall consider the request of any one or more private schools requesting the agency to jointly buy supplies, equipment, and services including but not limited to school bus maintenance services, and, after considering such request, may cooperate with and jointly make purchases with private schools of supplies, equipment, and services, including but not limited to school bus maintenance services, so long as such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases;

(4) Consider the request of any one or more private schools requesting the board to jointly buy supplies, equipment and services including but not limited to school bus maintenance services, and, after considering such request, may provide such joint purchasing services: PROVIDED, That such private schools pay in advance their proportionate share of the costs or provide a surety bond to cover their proportionate share of the costs involved in such purchases; and

(5) Prepare budgets as provided for in chapter (~~28A.65~~) 28A.505 RCW.

Sec. 332. Section 1, chapter 142, Laws of 1972 ex. sess. as amended by section 115, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.58.620 are each amended to read as follows:

Whenever any action, claim or proceeding is instituted against any director, officer, employee or agent of a school district or educational service district arising out of the performance or failure of performance of duties

for, or employment with any such district, the board of directors of the school district or educational service district board, as the case may be, may grant a request by such person that the prosecuting attorney and/or attorney of the district's choosing be authorized to defend said claim, suit or proceeding, and the costs of defense, attorney's fees, and any obligation for payment arising from such action may be paid from the school district's general fund, or in the case of an educational service district, from any appropriation made for the support of the educational service district, to which said person is attached: **PROVIDED**, That costs of defense and/or judgment against such person shall not be paid in any case where the court has found that such person was not acting in good faith or within the scope of his or her employment with or duties for the district.

B. Program Evaluation

Sec. 333. Section 2, chapter 349, Laws of 1985 as last amended by section 1, chapter 83, Laws of 1989 and RCW 28A.58.085 are each amended to read as follows:

(1) Each school district board of directors shall develop a schedule and process by which each public school within its jurisdiction shall undertake self-study procedures on a regular basis: **PROVIDED**, That districts may allow two or more elementary school buildings in the district to undertake jointly the self-study process. Each school may follow the accreditation process developed by the state board of education under RCW ((28A.04.120(6))) 28A.305.130(6), although no school is required to file for actual accreditation, or the school may follow a self-study process developed locally. The initial self-study process within each district shall begin by September 1, 1986, and should be completed for all schools within a district by the end of the 1990-91 school year.

(2) Any self-study process must include the participation of staff, parents, members of the community, and students, where appropriate to their age.

(3) The self-study process that is used must focus upon the quality and appropriateness of the school's educational program and the results of its operational effort. The primary emphasis throughout the process shall be placed upon:

- (a) Achieving educational excellence and equity;
- (b) Building stronger links with the community; and
- (c) Reaching consensus upon educational expectations through community involvement and corresponding school management.

(4) The state board of education shall adopt rules governing procedural criteria. Such rules should be flexible so as to accommodate local goals and circumstances. The rules may allow for waiver of the self-study for economic reasons and may also allow for waiver of the initial self-study if a

district or its schools have participated successfully in an official accreditation process or in a similar assessment of educational programs within the last three years. The self-study process shall be conducted on a cyclical basis every seven years following the initial 1990-91 period.

(5) The superintendent of public instruction shall provide training to assist districts in their self-studies.

(6) Each district shall report every two years to the superintendent of public instruction on the scheduling and implementation of their self-study activities. The report shall include information about how the district and each school within the district have addressed the issue of class size and staffing patterns.

Sec. 334. Section 1, chapter 90, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 256, Laws of 1988 and RCW 28A.58.090 are each amended to read as follows:

Every school district board of directors, being accountable to the citizens within its district as to the education offered to the students therein, shall include as part of the self-study procedures required under RCW ((~~28A.58.085~~)) 28A.320.200, the development of a program identifying student learning objectives for their district in all courses of study included in the school district programs: PROVIDED, That each school within the district, as a part of the self-study process, shall review the district learning objectives for each course of study and may identify additional or special learning objectives which are applicable to the particular school. In developing a program to identify student learning objectives, or in reviewing a student learning objectives program already established, districts are encouraged to consider the activities, developments, and results of the work of the temporary committee on the assessment and accountability of educational outcomes ((~~pursuant to the provisions of RCW 28A.100.010 through 28A.100.026~~)).

C. Deposit, Investment of Funds, and Use of Proceeds

Sec. 335. Section 1, chapter 47, Laws of 1975 as amended by section 5, chapter 191, Laws of 1982 and RCW 28A.58.430 are each amended to read as follows:

Any common school district board of directors is empowered to direct and authorize, and to delegate authority to an employee, officer, or agent of the common school district or the educational service district to direct and authorize, the county treasurer to invest funds described in RCW ((~~28A.58.435 and 28A.58.440~~)) 28A.320.310 and 28A.320.320 and funds from state and federal sources as are then or thereafter received by the educational service district, and such funds from county sources as are then or thereafter received by the county treasurer, for distribution to the common school districts. Funds from state, county and federal sources which are so invested may be invested only for the period the funds are not required for

the immediate necessities of the common school district as determined by the school district board of directors or its delegatee, and shall be invested in behalf of the common school district pursuant to the terms of RCW (~~28A.58.435, 28A.58.440~~) 28A.320.310, 28A.320.320, or 36.29.020(~~(, as now or hereafter amended,)~~) as the nature of the funds shall dictate. A grant of authority by a common school district pursuant to this section shall be by resolution of the board of directors and shall specify the duration and extent of the authority so granted. Any authority delegated to an educational service district pursuant to this section may be redelegated pursuant to RCW (~~28A.21.095, as now or hereafter amended~~) 28A.310.220.

Sec. 336. Section 4, chapter 8, Laws of 1971 as amended by section 95, chapter 7, Laws of 1985 and RCW 28A.58.435 are each amended to read as follows:

The board of directors of any school district of the state of Washington which now has, or hereafter shall have, funds in the capital projects fund of the district in the office of the county treasurer which in the judgment of said board are not required for the immediate necessities of the district, may invest and reinvest all, or any part, of such funds in United States securities, as hereinafter specified after and pursuant to a resolution adopted by the board, authorizing and directing the county treasurer, as ex officio the treasurer of said district, to invest or reinvest, said moneys or any designated amount thereof in United States securities and specifying the type or character of the United States securities in which said moneys shall be invested: PROVIDED, That nothing herein authorized, or the type and character of the securities thus specified, shall have in itself the effect of delaying any program of building for which said funds shall have been authorized. Said funds and said securities and the profit and interest thereon, and the proceeds thereof, shall be held by the county treasurer to the credit and benefit of the capital projects fund of the district in (~~his said~~) the county treasurer's office. If in the judgment of the board it shall be necessary to redeem or to sell any of the purchased securities before their ultimate maturity date, the board may, by resolution, direct the county treasurer to cause such redemption to be had at the "Redemption Value" of said securities or to sell said bonds and securities at not less than market value and accrued interest. The foregoing "securities" shall include United States bonds, federal treasury notes and treasury bonds and United States certificates of indebtedness and other federal securities which may, during the life of this statute, come within the terms of this section.

Sec. 337. Section 2, chapter 250, Laws of 1981 as last amended by section 13, chapter 59, Laws of 1983 and RCW 28A.58.441 are each amended to read as follows:

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

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

(2) A capital projects fund shall be established for major capital purposes. All statutory references to a "building fund" shall mean the capital projects fund so established. Money to be deposited into the capital projects fund shall include, but not be limited to, bond proceeds, proceeds from excess levies authorized by RCW 84.52.053, state apportionment proceeds as authorized by RCW (~~(28A.41.143)~~) 28A.150.270, and earnings from capital projects fund investments as authorized by RCW (~~(28A.58.435 and 28A.58.440)~~) 28A.320.310 and 28A.320.320.

Money derived from the sale of bonds, including interest earnings thereof, may only be used for those purposes described in RCW (~~(28A.51.010)~~) 28A.530.010, except that accrued interest paid for bonds shall be deposited in the debt service fund.

Money to be deposited into the capital projects fund shall include but not be limited to rental and lease proceeds as authorized by RCW (~~(28A.58.035)~~) 28A.335.060, and proceeds from the sale of real property as authorized by RCW (~~(28A.58.046)~~) 28A.335.130.

Money legally deposited into the capital projects fund from other sources may be used for the purposes described in RCW (~~(28A.51.010)~~) 28A.530.010, and for the purposes of:

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

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

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

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

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

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

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

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

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

(4) An associated student body fund as authorized by RCW ((~~28A-58.120~~)) 28A.325.030.

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

D. Electors—Qualifications, Voting Place, and Special Meetings

Sec. 338. Section 28A.58.380, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.380 are each amended to read as follows:

All such special meetings shall be held at such schoolhouse or place as the board of directors may determine. The voting shall be by ballot, the ballots to be of white paper of uniform size and quality. At least ten days' notice of such special meeting shall be given by the school district superintendent, in the manner that notice is required to be given of the annual school election, which notice shall state the object or objects for which the meeting is to be held, and no other business shall be transacted at such meeting than such as is specified in the notice. The school district superintendent shall be the secretary of the meeting, and the chairman of the board of directors or, in his absence, the senior director present, shall be chairman of the meeting: PROVIDED, That in the absence of one or all of said officials, the qualified electors present may elect a chairman or secretary, or both chairman and secretary, of said meeting as occasion may require, from among their number. The secretary of the meeting shall make a record of the proceedings of the meeting, and when the secretary of such meeting has been elected by the qualified voters present, he or she shall within ten days thereafter, file the record of the proceedings, duly certified, with the superintendent of the district, and said records shall become a part of the records of the district, and be preserved as other records.

E. Summer School, Night School, Extracurricular Activities, and Athletics

Sec. 339. Section 1, chapter 161, Laws of 1974 ex. sess. and RCW 28A.58.080 are each amended to read as follows:

Every school district board of directors is authorized to establish and operate summer and/or other student vacation period programs and to assess such tuition and special fees as it deems necessary to offset the maintenance and operation costs of such programs in whole or part. A summer and/or other student vacation period program may consist of such courses and activities as the school district board shall determine to be appropriate:

PROVIDED, That such courses and activities shall not conflict with the provisions of RCW (~~(28A.04.120, as now or hereafter amended)~~) 28A.305.130. Attendance shall be voluntary.

25. Associated Student Bodies

Sec. 340. Section 2, chapter 284, Laws of 1975 1st ex. sess. as last amended by section 2, chapter 98, Laws of 1984 and RCW 28A.58.120 are each amended to read as follows:

There is hereby created a fund on deposit with each county treasurer for each school district of the county having an associated student body as defined in RCW (~~(28A.58.115)~~) 28A.325.020. Such fund shall be known as the associated student body program fund. Rules and regulations promulgated by the superintendent of public instruction under RCW (~~(28A.58.115)~~) 28A.325.020 shall require separate accounting for each associated student body's transactions in the school district's associated student body program fund.

All moneys generated through the programs and activities of any associated student body shall be deposited in the associated student body program fund. Such funds may be invested for the sole benefit of the associated student body program fund in items enumerated in RCW (~~(28A.58.440)~~) 28A.320.320 and the county treasurer may assess a fee as provided therein. Disbursements from such fund shall be under the control and supervision, and with the approval, of the board of directors of the school district, and shall be by warrant as provided in chapter (~~(28A.66)~~) 28A.350 RCW: **PROVIDED**, That in no case shall such warrants be issued in an amount greater than the funds on deposit with the county treasurer in the associated student body program fund. To facilitate the payment of obligations, an imprest bank account or accounts may be created and replenished from the associated student body program fund.

The associated student body program fund shall be budgeted by the associated student body, subject to approval by the board of directors of the school district. All disbursements from the associated student body program fund or any imprest bank account established thereunder shall have the prior approval of the appropriate governing body representing the associated student body. Notwithstanding the provisions of RCW 43.09.210, it shall not be mandatory that expenditures from the district's general fund in support of associated student body programs and activities be reimbursed by payments from the associated student body program fund.

Nothing in this section shall prevent those portions of student-generated moneys in the associated student body program fund, budgeted or otherwise, which constitute bona fide voluntary donations and are identified as donations at the time of collection from being used for such scholarship, student exchange and charitable purposes as the appropriate governing body

representing the associated student body shall determine, and for such purposes, said moneys shall not be deemed public moneys under section 7, Article VIII, of the state Constitution.

Nonassociated student body program fund moneys generated and received by students for private purposes, including but not limited to use for scholarship and/or charitable purposes, may, in the discretion of the board of directors of any school district, be held in trust in one or more separate accounts within an associated student body program fund and be disbursed for such purposes: PROVIDED, That the school district shall either withhold an amount from such moneys as will pay the district for its cost in providing the service or otherwise be compensated for its cost for such service.

26. Provisions Applicable to School Districts

A. Provisions Applicable Only to First Class School Districts

Sec. 341. Section 28A.59.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.59.030 are each amended to read as follows:

At the first meeting of the members of the board they shall elect a president and vice president from among their number who shall serve for a term of one year or until their successors are elected. In the event of the temporary absence or disability of both the president and vice president, the board of directors may elect a president pro tempore who shall discharge all the duties of president during such temporary absence or disability.

The superintendent of such school district shall act as secretary to the board in accordance with the provisions of RCW ((28A:58:150)) 28A.400.030.

Sec. 342. Section 28A.59.040, chapter 223, Laws of 1969 ex. sess. and RCW 28A.59.040 are each amended to read as follows:

The election of the officers of the board of directors or to fill any vacancy as provided in RCW ((28A:57:326)) 28A.315.530, and the selection of the school district superintendent shall be by oral call of the roll of all the members, and no person shall be declared elected or selected unless he or she receives a majority vote of all the members of the board. Selection of other certificated and noncertificated personnel shall be made in such manner as the board shall determine.

Sec. 343. Section 28A.59.060, chapter 223, Laws of 1969 ex. sess. and RCW 28A.59.060 are each amended to read as follows:

It shall be the duty of the vice president to perform all the duties of president in case of ((his)) the president's absence or disability.

Sec. 344. Section 28A.59.070, chapter 223, Laws of 1969 ex. sess. and RCW 28A.59.070 are each amended to read as follows:

In addition to the duties as prescribed in RCW ((28A:58:150)) 28A.400.030, the school district superintendent, as secretary of the board, may be authorized by the board to act as business manager, purchasing

agent, and/or superintendent of buildings and janitors, and charged with the special care of school buildings and other property of the district, and he or she shall perform other duties as the board may direct.

Sec. 345. Section 28A.59.080, chapter 223, Laws of 1969 ex. sess. as last amended by section 117, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.59.080 are each amended to read as follows:

Before entering upon the discharge of ~~((his))~~ the superintendent's duties, the superintendent as secretary of the board shall give bond in such sum as the board of directors may fix from time to time, but for not less than five thousand dollars, with good and sufficient sureties, and shall take and subscribe an oath or affirmation, before a proper officer that he or she will support the Constitution of the United States and of the state of Washington and faithfully perform the duties of ~~((his))~~ the office, a copy of which oath or affirmation shall be filed with the educational service district superintendent.

Sec. 346. Section 28A.59.110, chapter 223, Laws of 1969 ex. sess. and RCW 28A.59.110 are each amended to read as follows:

Moneys of such school districts shall be paid out only upon orders for warrants signed by the president, or a majority of the board of directors and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the president personally imposes too great a task on the president, the board of directors, after auditing all payrolls and bills as provided by RCW ~~((28A.59.150))~~ 28A.330.090, may authorize the issuing of one general certificate to the county treasurer, to be signed by the president, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants.

Sec. 347. Section 28A.59.150, chapter 223, Laws of 1969 ex. sess. as last amended by section 9, chapter 56, Laws of 1983 and RCW 28A.59.150 are each amended to read as follows:

All accounts shall be audited by a committee of board members chosen in such manner as the board so determines to be styled the "auditing committee," and, except as otherwise provided by law, no expenditure greater than three hundred dollars shall be voted by the board except in accordance with a written contract, nor shall any money or appropriation be paid out of the school fund except on a recorded affirmative vote of a majority of all members of the board: PROVIDED, That nothing herein shall be construed to prevent the board from making any repairs or improvements to the property of the district through their shop and repair department as otherwise provided in RCW ~~((28A.58.135))~~ 28A.335.190.

Sec. 348. Section 7, chapter 2, Laws of 1983 and RCW 28A.59.180 are each amended to read as follows:

Every board of directors of a school district of the first class, in addition to the general powers for directors enumerated in (~~chapter 28A.58 RCW or elsewhere in~~) this title, shall have the power:

(1) To employ for a term of not exceeding three years a superintendent of schools of the district, and for cause to dismiss him or her; and to fix his or her duties and compensation.

(2) To employ, and for cause dismiss one or more assistant superintendents and to define their duties and fix their compensation.

(3) To employ a business manager, attorneys, architects, inspectors of construction, superintendents of buildings and a superintendent of supplies, all of whom shall serve at the board's pleasure, and to prescribe their duties and fix their compensation.

(4) To employ, and for cause dismiss, supervisors of instruction and to define their duties and fix their compensation.

(5) To prescribe a course of study and a program of exercises which shall be consistent with the course of study prepared by the state board of education for the use of the common schools of this state.

(6) To, in addition to the minimum requirements imposed by (~~Title 28A RCW, as now or hereafter amended;~~) this title establish and maintain such grades and departments, including night, high, kindergarten, vocational training and, except as otherwise provided by law, industrial schools, and schools and departments for the education and training of any class or classes of handicapped youth, as in the judgment of the board, best shall promote the interests of education in the district.

(7) To determine the length of time over and above one hundred eighty days that school shall be maintained: PROVIDED, That for purposes of apportionment no district shall be credited with more than one hundred and eighty-three days' attendance in any school year; and to fix the time for annual opening and closing of schools and for the daily dismissal of pupils before the regular time for closing schools.

(8) To maintain a shop and repair department, and to employ, and for cause dismiss, a foreman and the necessary help for the maintenance and conduct thereof.

(9) To provide free textbooks and supplies for all children attending school, when so ordered by a vote of the electors; or if the free textbooks are not voted by the electors, to provide books for children of indigent parents, on the written statement of the city superintendent that the parents of such children are not able to purchase them.

(10) To require of the officers or employees of the district to give a bond for the honest performance of their duties in such penal sum as may be fixed by the board with good and sufficient surety, and to cause the premium for all bonds required of all such officers or employees to be paid by

the district: PROVIDED, That the board may, by written policy, allow that such bonds may include a deductible proviso not to exceed two percent of the officer's or employee's annual salary.

(11) To prohibit all secret fraternities and sororities among the students in any of the schools of the said districts.

(12) To appoint a practicing physician, resident of the school district, who shall be known as the school district medical inspector, and whose duty it shall be to decide for the board of directors all questions of sanitation and health affecting the safety and welfare of the public schools of the district who shall serve at the board's pleasure; ~~((he))~~ the school district medical inspector or authorized deputies shall make monthly inspections of each school in the district and report the condition of the same to the board of education and board of health: PROVIDED, That children shall not be required to submit to vaccination against the will of their parents or guardian.

B. Provisions Applicable Only to Second Class School Districts

Sec. 349. Section 28A.60.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 187, Laws of 1988 and RCW 28A.60.010 are each amended to read as follows:

The term of office of directors of districts of the second class shall begin, and the board shall organize, as provided in RCW ~~((28A.57.322))~~ 28A.315.500. At the first meeting of the members of the board they shall elect a ~~((chairman))~~ chair from among their number who shall serve for a term of one year or until his or her successor is elected. The school district superintendent as defined in RCW ~~((28A.01.100))~~ 28A.150.080 shall serve as secretary to the board. Whenever a district shall be without the services of such a superintendent and the business of the district necessitates action thereby, the board shall appoint any member thereof to carry out the superintendent's powers and duties for the district.

Sec. 350. Section 11, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.60.070 are each amended to read as follows:

Every school district superintendent in districts of the second class shall within ten days after any change in the office of ~~((chairman))~~ chair or superintendent, notify the educational service district superintendent of such change.

Sec. 351. Section 5, chapter 8, Laws of 1971 as amended by section 19, chapter 43, Laws of 1975 and RCW 28A.60.310 are each amended to read as follows:

The board of directors of every second class district in addition to their other powers are authorized to employ an attorney and to prescribe ~~((his))~~ the attorney's duties and fix ~~((his))~~ the attorney's compensation.

Sec. 352. Section 1, chapter 111, Laws of 1973 as last amended by section 10, chapter 56, Laws of 1983 and RCW 28A.60.328 are each amended to read as follows:

Second class school districts, subject to the approval of the superintendent of public instruction, may draw and issue warrants for the payment of moneys upon approval of a majority of the board of directors, such warrants to be signed by the ((chairman)) chair of the board and countersigned by the secretary: PROVIDED, That when, in the judgment of the board of directors, the orders for warrants issued by the district monthly shall have reached such numbers that the signing of each warrant by the ((chairman)) chair of the board personally imposes too great a task on the ((chairman)) chair, the board of directors, after auditing all payrolls and bills, may authorize the issuing of one general certificate to the county treasurer, to be signed by the ((chairman)) chair of the board, authorizing said treasurer to pay all the warrants specified by date, number, name and amount, and the funds on which said warrants shall be drawn; thereupon the secretary of said board shall be authorized to draw and sign said orders for warrants.

27. School Districts' Property Acquisition, Operation, Closure, and Disposal

Sec. 353. Section 3, chapter 109, Laws of 1983 and RCW 28A.58.032 are each amended to read as follows:

A school district may close a school for emergency reasons, as set forth in RCW ((~~20A.41.170(2) (a) and (b)~~)) 28A.150.290(2) (a) and (b), without complying with the requirements of RCW ((~~28A.58.031~~)) 28A.335.020.

Sec. 354. Section 2, chapter 115, Laws of 1980 as amended by section 2, chapter 306, Laws of 1981 and RCW 28A.58.033 are each amended to read as follows:

(1) Every school district board of directors is authorized to permit the rental, lease, or occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: PROVIDED, That the leasing or renting or use of such property is for a lawful purpose, is in the best interest of the district, and does not interfere with conduct of the district's educational program and related activities: PROVIDED FURTHER, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for school purposes in the future.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW ((~~28A.58.034 and 28A.58.040, each as now or hereafter amended;~~)) 28A.335.050 and 28A.335.090 is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall send written notice to the office of the state superintendent of public instruction.

School districts shall not rent or lease the property for at least forty-five days following the date notification is mailed to the state superintendent of public instruction.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies.

Sec. 355. Section 3, chapter 115, Laws of 1980 and RCW 28A.58.034 are each amended to read as follows:

(1) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW (~~(28A.58.033)~~) 28A.335.040 may include the joint use of school district property, which is in part used for school purposes, by any combination of persons, corporations or government entities for other than common school purposes: PROVIDED, That any such joint use shall comply with existing local zoning ordinances.

(2) Authorization to rent, lease, or permit the occasional use of surplus school property under RCW (~~(28A.58.033)~~) 28A.335.040 shall be conditioned on the payment by all users, lessees or tenants, assessed on a basis that is nondiscriminatory within classes of users, of such reasonable compensation and under such terms as regulations adopted by the board of directors shall provide.

(3) Nothing in RCW (~~(28A.58.033 and 28A.58.040)~~) 28A.335.040 and 28A.335.090 shall prohibit a school board of directors and a lessee or tenant from agreeing to conditions to the lease otherwise lawful, including conditions of reimbursement or partial reimbursement of costs associated with the lease or rental of the property.

Sec. 356. Section 5, chapter 115, Laws of 1980 and RCW 28A.58.036 are each amended to read as follows:

The provisions of contracts for the use, rental or lease of school district real property executed prior to June 12, 1980, which were lawful at the time of execution shall not be impaired by such new terms and conditions to the rental, lease or occasional use of school property as may now be established by RCW (~~(28A.58.033, 28A.58.034 and 28A.58.040)~~) 28A.335.040, 28A.335.050, and 28A.335.090.

Sec. 357. Section 6, chapter 115, Laws of 1980 and RCW 28A.58.037 are each amended to read as follows:

Nothing in RCW (~~(28A.58.033 through 28A.58.036)~~) 28A.335.040 through 28A.335.070 shall preclude school district boards of directors from making available school property for community use in accordance with the provisions of RCW (~~(28A.58.048, 28A.58.105 or 28A.60.190)~~)

28A.335.150, 28A.320.510, or 28A.335.250, and school district administrative policy governing such use.

Sec. 358. Section 28A.58.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 3, chapter 306, Laws of 1981 and RCW 28A.58-.040 are each amended to read as follows:

The board of directors of each school district shall have exclusive control of all school property, real or personal, belonging to the district; said board shall have power, subject to RCW (~~28A.58.045, as now or hereafter amended~~) 28A.335.120, in the name of the district, to convey by deed all the interest of their district in or to any real property of the district which is no longer required for school purposes. Except as otherwise specially provided by law, and RCW (~~28A.58.045, as now or hereafter amended~~) 28A.335.120, the board of directors of each school district may purchase, lease, receive and hold real and personal property in the name of the district, and rent, lease or sell the same, and all conveyances of real estate made to the district shall vest title in the district.

Sec. 359. Section 12, chapter 130, Laws of 1969 and RCW 28A.58.075 are each amended to read as follows:

Any school district may cooperate with one or more school districts in the following:

(1) The joint financing, planning, construction, equipping and operating of any educational facility otherwise authorized by law: PROVIDED, That any cooperative financing plan involving the construction of school plant facilities must be approved by the state board of education pursuant to such rules as may now or hereafter be promulgated relating to state approval of school construction.

(2) The joint maintenance and operation of educational programs or services (a) either as a part of the operation of a joint facility or otherwise, (b) either on a full or part time attendance basis, and (c) either on a regular one hundred eighty day school year or extended school year: PROVIDED, That any such joint program or service must be operated pursuant to a written agreement approved by the superintendent of public instruction pursuant to rules and regulations promulgated therefor. In establishing rules and regulations the state superintendent shall consider, among such other factors as ~~(he)~~ the superintendent deems appropriate, the economic feasibility of said services and programs, the educational and administrative scope of said agreement and the need for said programs or services.

Notwithstanding any other provision of the law, the state superintendent of public instruction shall establish rules and regulations for the apportionment of attendance credits for such students as are enrolled in a jointly operated facility or program, including apportionment for approved part time and extended school year attendance.

Sec. 360. Section 1, chapter 210, Laws of 1977 ex. sess. as last amended by section 1, chapter 141, Laws of 1987 and RCW 28A.58.131 are each amended to read as follows:

The board of directors of any school district may enter into contracts for their respective districts for periods not exceeding five years in duration with public and private persons, organizations, and entities for the following purposes:

- (1) To rent or lease building space, portable buildings, security systems, computers and other equipment;
- (2) To have maintained and repaired security systems, computers and other equipment; and
- (3) To provide pupil transportation services.

No school district may enter into a contract for pupil transportation unless it has notified the superintendent of public instruction that, in the best judgment of the district, the cost of contracting will not exceed the projected cost of operating its own pupil transportation.

The budget of each school district shall identify that portion of each contractual liability incurred pursuant to this section extending beyond the fiscal year by amount, duration, and nature of the contracted service and/or item in accordance with rules and regulations of the superintendent of public instruction adopted pursuant to RCW (~~28A.65.465 and 28A.21.135, as now or hereafter amended~~) 28A.505.140 and 28A.310.330.

The provisions of this section shall not have any effect on the length of contracts for school district employees specified by RCW (~~28A.58.099 and 28A.67.070~~) 28A.400.300 and 28A.405.210.

Sec. 361. Section 1, chapter 303, Laws of 1977 ex. sess. as amended by section 1, chapter 306, Laws of 1981 and RCW 28A.02.110 are each amended to read as follows:

Notwithstanding any other provision of law, school districts, educational service districts, or any other state or local governmental agency concerned with education, when declaring texts and other books, equipment, materials or relocatable facilities as surplus, shall, prior to other disposal thereof, serve notice in writing to the office of the state superintendent of public instruction and to any public school district or private school in Washington state annually requesting such a notice, that the same is available for sale, rent, or lease to public school districts or private schools, at depreciated cost or fair market value, whichever is greater: PROVIDED, That students wishing to purchase texts pursuant to RCW (~~28A.58.103(2)~~) 28A.320.230(2) shall have priority as to such texts. Such districts or agencies shall not otherwise sell, rent or lease such surplus property to any person, firm, organization, or nongovernmental agency for at least forty-five days following the date notification is mailed to the state superintendent of public instruction.

Sec. 362. Section 28A.58.135, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 324, Laws of 1985 and RCW 28A.58.135 are each amended to read as follows:

(1) When, in the opinion of the board of directors of any school district, the cost of any furniture, supplies, equipment, building, improvements, or repairs, or other work or purchases, except books, will equal or exceed the sum of twenty thousand dollars, complete plans and specifications for such work or purchases shall be prepared and notice by publication given in at least one newspaper of general circulation within the district, once each week for two consecutive weeks, of the intention to receive bids therefor and that specifications and other information may be examined at the office of the board or any other officially designated location: PROVIDED, That the board without giving such notice may make improvements or repairs to the property of the district through the shop and repair department of such district when the total of such improvements or repair does not exceed the sum of seventy-five hundred dollars. The cost of any public work, improvement or repair for the purposes of this section shall be the aggregate of all amounts to be paid for labor, material, and equipment on one continuous or interrelated project where work is to be performed simultaneously or in close sequence. The bids shall be in writing and shall be opened and read in public on the date and in the place named in the notice and after being opened shall be filed for public inspection.

(2) Every purchase of furniture, equipment or supplies, except books, the cost of which is estimated to be in excess of seventy-five hundred dollars, shall be on a competitive basis. The board of directors shall establish a procedure for securing telephone and/or written quotations for such purchases. Whenever the estimated cost is from seventy-five hundred dollars up to twenty thousand dollars, the procedure shall require quotations from at least three different sources to be obtained in writing or by telephone, and recorded for public perusal. Whenever the estimated cost is in excess of twenty thousand dollars, the public bidding process provided in subsection (1) of this section shall be followed.

(3) Every building, improvement, repair or other public works project, the cost of which is estimated to be in excess of seventy-five hundred dollars, shall be on a competitive bid process. All such projects estimated to be less than twenty thousand dollars may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall establish a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good faith effort be made to request quotations from all contractors on the small works roster who have indicated the capability of performing the kind of public works

being contracted. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised at least once each year by publishing notice of such opportunity in at least one newspaper of general circulation in the district. Responsible contractors shall be added to the list at any time they submit a written request. Whenever the estimated cost of a public works project is twenty thousand dollars or more, the public bidding process provided in subsection (1) of this section shall be followed.

(4) The contract for the work or purchase shall be awarded to the lowest responsible bidder as defined in RCW 43.19.1911 but the board may by resolution reject any and all bids and make further calls for bids in the same manner as the original call. On any work or purchase the board shall provide bidding information to any qualified bidder or ~~((his))~~ the bidder's agent, requesting it in person.

(5) In the event of any emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board declaring the existence of such an emergency and reciting the facts constituting the same, the board may waive the requirements of this section with reference to any purchase or contract: PROVIDED, That an "emergency", for the purposes of this section, means a condition likely to result in immediate physical injury to persons or to property of the school district in the absence of prompt remedial action.

Sec. 363. Section 28A.60.200, chapter 223, Laws of 1969 ex. sess. as amended by section 17, chapter 43, Laws of 1975 and RCW 28A.60.200 are each amended to read as follows:

Each school district of the second class, by itself or in combination with any other district or districts, shall have power, when in the judgment of the school board it shall be deemed expedient, to reconstruct, remodel, or build schoolhouses, and to erect, purchase, lease or otherwise acquire other improvements and real and personal property, and establish a communal assembly place and appurtenances, and supply the same with suitable and convenient furnishings and facilities for the uses mentioned in RCW ~~((28A.60.190, as now or hereafter amended))~~ 28A.335.250.

Sec. 364. Section 12, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.60.210 are each amended to read as follows:

Plans of any second class district or combination of districts for the carrying out of the powers granted by RCW ~~((28A.60.190 through 28A.60.220, as now or hereafter amended;))~~ 28A.335.250 through 28A.335.280 shall be submitted to and approved by a board of supervisors composed of members, as follows: The superintendent of public instruction; the head of the extension department of Washington State University; the head of the extension department of the University of Washington; and the educational service district superintendent; these to choose one member from such

county in which the facilities are proposed to be located, and two members, from the district or districts concerned.

Sec. 365. Section 28A.60.220, chapter 223, Laws of 1969 ex. sess. and RCW 28A.60.220 are each amended to read as follows:

No real or personal property or improvements shall be purchased, leased, exchanged, acquired or sold, nor any schoolhouses built, remodeled or removed, nor any indebtedness incurred or money expended for any of the purposes of RCW (~~28A.60.190 through 28A.60.220~~) 28A.335.250 through 28A.335.280 except in the manner otherwise provided by law for the purchase, lease, exchange, acquisition and sale of school property, the building, remodeling and removing of schoolhouses and the incurring of indebtedness and expenditure of money for school purposes.

28. Small High School Cooperative Projects

Sec. 366. Section 2, chapter 268, Laws of 1988 and RCW 28A.100.080 are each amended to read as follows:

Eligible school districts as defined under RCW (~~28A.100.082~~) 28A.340.020 are encouraged to establish cooperative projects with a primary purpose to increase curriculum programs and opportunities among the participating districts, by expanding the opportunity for students in the participating districts to take vocational and academic courses as may be generally more available in larger school districts, and to enhance student learning.

Sec. 367. Section 3, chapter 268, Laws of 1988 and RCW 28A.100.082 are each amended to read as follows:

School districts eligible for funding as a small high school district pursuant to the state operating appropriations act shall be eligible to participate in a cooperative project: PROVIDED, That the superintendent of public instruction may adopt rules permitting second class school districts that are not eligible for funding as a small high school district in the state operating appropriations act to participate in a cooperative project.

Two or more school districts may participate in a cooperative project pursuant to RCW (~~28A.100.082 through 28A.100.092~~) 28A.340.020 through 28A.340.070.

Sec. 368. Section 4, chapter 268, Laws of 1988 and RCW 28A.100.084 are each amended to read as follows:

(1) Eligible school districts desiring to form a cooperative project pursuant to RCW (~~28A.100.082 through 28A.100.092~~) 28A.340.020 through 28A.340.070 shall submit to the superintendent of public instruction an application for review as a cooperative project. The application shall include, but not be limited to, the following information:

(a) A description of the cooperative project, including the programs, services, and administrative activities that will be operated jointly;

(b) The improvements in curriculum offerings and educational opportunities expected to result from the establishment of the proposed cooperative project;

(c) A list of any statutory requirements or administrative rules which are considered financial disincentives to the establishment of cooperative projects and which would impede the operation of the proposed cooperative project; and the financial impact to the school districts and the state expected to result by the granting of a waiver from such statutory requirements or administrative rules;

(d) An assessment of community support for the proposed cooperative project, which assessment shall include each community affected by the proposed cooperative project; and

(e) A plan for evaluating the educational and cost-effectiveness of the proposed cooperative project, including curriculum offerings and staffing patterns.

(2) The superintendent of public instruction shall review the application before the applicant school districts may commence the proposed cooperative project.

In reviewing applications, the superintendent shall be limited to: (a) The granting of waivers from statutory requirements, for which the superintendent of public instruction has the express power to implement pursuant to the adoption of rules, or administrative rules that need to be waived in order for the proposed cooperative project to be implemented: PROVIDED, That no statutory requirement or administrative rule dealing with health, safety, or civil rights may be waived; and (b) ensuring the technical accuracy of the application.

Any waiver granted by the superintendent of public instruction shall be reviewed and may be renewed by the superintendent every five years subject to the participating districts submitting a new application pursuant to this section.

(3) If additional eligible school districts wish to participate in an existing cooperative project the cooperative project as a whole shall reapply for review by the superintendent of public instruction.

Sec. 369. Section 5, chapter 268, Laws of 1988 and RCW 28A.100.086 are each amended to read as follows:

(1) School districts participating in a cooperative project pursuant to RCW ((~~28A.100.084~~)) 28A.340.030 may adopt identical salary schedules following compliance with chapter 41.59 RCW: PROVIDED, That if the districts participating in a cooperative project adopt identical salary schedules, the participating districts shall be considered a single school district for purposes of establishing compliance with the salary limitations of RCW ((~~28A.58.0951(3)~~)) 28A.400.200(3) but not for the purposes of allocation of state funds.

(2) For purposes of computing fringe benefit contributions for purposes of establishing compliance with RCW ~~((28A.58.0951(3)(b)))~~ 28A.400.200(3)(b), the districts participating in a cooperative project pursuant to RCW ~~((28A.100.084))~~ 28A.340.030 may use the greater of: (a) The highest amount provided in the 1986-87 school year by a district participating in the cooperative project; or (b) the amount authorized for such purposes in the state operating appropriations act in effect at the time.

Sec. 370. Section 7, chapter 268, Laws of 1988 and RCW 28A.100.088 are each amended to read as follows:

(1) School districts participating in a cooperative project established under RCW ~~((28A.100.084))~~ 28A.340.030 shall submit a report to the superintendent of public instruction by September 1 of the third year of operation of the cooperative project and by September 1 of the fifth year of the cooperative project.

(2) (a) The third year report shall indicate the progress of the cooperative project in meeting the objectives set forth in the application pursuant to RCW ~~((28A.100.084))~~ 28A.340.030.

(b) The fifth year report shall evaluate the success of the cooperative project in meeting the objectives set forth in the application pursuant to RCW ~~((28A.100.084))~~ 28A.340.030 and may include an application for renewal of the cooperative project.

(3) The superintendent of public instruction shall submit a report to the legislature by January 1 of every third odd-numbered year beginning January 1, 1989. The report shall include information about the number of school districts participating in cooperative projects and findings and recommendations about the educational effectiveness and cost-effectiveness of the cooperative projects. The report shall also include any findings and recommendations as determined by the superintendent regarding the relationship of the small high school factor in the state operating appropriations act to cooperative projects established under ~~((28A.100.080 through 28A.100.092))~~ RCW 28A.340.010 through 28A.340.070.

Sec. 371. Section 8, chapter 268, Laws of 1988 and RCW 28A.100.090 are each amended to read as follows:

(1) The superintendent of public instruction shall adopt rules as necessary under chapter 34.05 RCW to carry out the provisions of RCW ~~((28A.100.080 through 28A.100.092))~~ 28A.340.010 through 28A.340.070.

(2) When the joint operation of programs or services includes the teaching of all or substantially all of the curriculum for a particular grade or grades in only one local school district, the rules shall provide that the affected students are attending school in the district in which they reside for the purposes of RCW ~~((28A.41.130 and 28A.41.140))~~ 28A.150.250 and 28A.150.260 and chapter ~~((28A.44))~~ 28A.545 RCW.

29. Washington State School Directors' Association

Sec. 372. Section 28A.61.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 325, Laws of 1989 and RCW 28A.61-.030 are each amended to read as follows:

The school directors' association shall have the power:

(1) To prepare and adopt, amend and repeal a constitution and rules and regulations, and bylaws for its own organization including county or regional units and for its government and guidance: PROVIDED, That action taken with respect thereto is consistent with the provisions of this chapter or with other provisions of law;

(2) To arrange for and call such meetings of the association or of the officers and committees thereof as are deemed essential to the performance of its duties;

(3) To provide for the payment of travel and subsistence expenses incurred by members and/or officers of the association and association staff while engaged in the performance of duties under direction of the association in the manner provided by RCW (~~(28A.58.310)~~) 28A.320.050;

(4) To employ an executive secretary and other staff and pay such employees out of the funds of the association;

(5) To conduct studies and disseminate information therefrom relative to increased efficiency in local school board administration;

(6) To buy, lease, sell, or exchange such personal and real property, as necessary for the efficient operation of the association and to borrow money, issue deeds of trust or other evidence of indebtedness, or enter into contracts for the purchase, lease, remodeling, or equipping of office facilities or the acquisition of sites for such facilities;

(7) To purchase liability insurance for school directors, which insurance may indemnify said directors against any or all liabilities for personal or bodily injuries and property damage arising from their acts or omissions while performing or while in good faith purporting to perform their official duties as school directors;

(8) To provide advice and assistance to local boards to promote their primary duty of representing the public interest;

(9) Upon request by a local school district board(s) of directors, to make available on a cost reimbursable contract basis (a) specialized services, (b) research information, and (c) consultants to advise and assist district board(s) in particular problem areas: PROVIDED, That such services, information, and consultants are not already available from other state agencies, educational service districts, or from the information and research services authorized by RCW (~~(28A.58.530)~~) 28A.320.110.

30. School District Warrants—Auditors' Duties

Sec. 373. Section 28A.66.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 27, chapter 43, Laws of 1975 and RCW 28A.66-.010 are each amended to read as follows:

The county auditor shall register in ~~((his))~~ the auditor's own office, and present to the treasurer for registration in the office of the county treasurer, all warrants of first class districts, and all warrants of second class districts electing to draw and issue their own warrants under RCW ~~((28A.60.328, as now or hereafter amended;))~~ 28A.330.230 received from school district superintendents or district secretaries before delivery of the same to claimants.

Sec. 374. Section 28A.66.020, chapter 223, Laws of 1969 ex. sess. as amended by section 28, chapter 43, Laws of 1975 and RCW 28A.66.020 are each amended to read as follows:

The county auditor shall cause all school warrants of second class districts issued by ~~((him))~~ the auditor to be registered in the treasurer's office and shall retain the vouchers on file in ~~((his))~~ the auditor's office.

Sec. 375. Section 28A.66.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 29, chapter 43, Laws of 1975 and RCW 28A.66-.040 are each amended to read as follows:

The county auditor shall draw and issue warrants for the payment of all salaries, expenses and accounts against second class districts, except those who draw and issue their own warrants pursuant to RCW ~~((28A.60-328, as now or hereafter amended;))~~ 28A.330.230 upon the written order of the majority of the members of the school board of each district.

PART III EMPLOYEES

31. Employees

A. Superintendents

Sec. 376. Section 10, chapter 15, Laws of 1975-'76 2nd ex. sess. as last amended by section 94, chapter 7, Laws of 1985 and RCW 28A.58.137 are each amended to read as follows:

In all districts the board of directors shall elect a superintendent who shall have such qualification as the local school board alone shall determine. The superintendent shall have supervision over the several departments of the schools thereof and carry out such other powers and duties as prescribed by law. Notwithstanding the provisions of RCW ~~((28A.58.099(1)))~~ 28A.400.300(1), the board may contract with such superintendent for a term not to exceed three years when deemed in the best interest of the district. The right to renew a contract of employment with any school superintendent shall rest solely with the discretion of the school board employing such school superintendent. Regarding such renewal of contracts of school superintendents the provisions of RCW ~~((28A.67.070, 28A.67.074 and 28A.88.010))~~ 28A.405.210, 28A.405.240, and 28A.645.010 shall be inapplicable.

Sec. 377. Section 28A.58.140, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.140 are each amended to read as follows:

Every school district director and school district superintendent, on assuming the duties of his or her office, shall place his or her signature, certified to by some school district official, on file in the office of the county auditor.

Sec. 378. Section 28A.58.150, chapter 223, Laws of 1969 ex. sess. as last amended by section 8, chapter 56, Laws of 1983 and RCW 28A.58.150 are each amended to read as follows:

In addition to such other duties as a district school board shall prescribe the school district superintendent shall:

(1) Attend all meetings of the board of directors and cause to have made a record as to the proceedings thereof.

(2) Keep such records and reports and in such form as the district board of directors require or as otherwise required by law or rule or regulation of higher administrative agencies and turn the same over to his or her successor.

(3) Keep accurate and detailed accounts of all receipts and expenditures of school money. At each annual school meeting the superintendent must present his or her record book of board proceedings for public inspection, and shall make a statement of the financial condition of the district and such record book must always be open for public inspection.

(4) Take annually in May of each year a census of all persons between the ages of four and twenty who were bona fide residents of the district on the first day of May of that year. ~~((He))~~ The superintendent shall designate the name and sex of each child, and the date of its birth; the number of weeks it has attended school during the school year, its post office address, and such other information as the superintendent of public instruction shall desire. Parents or guardians may be required to verify as to the correctness of this report. ~~((He))~~ The superintendent shall also list separately all persons with handicapping conditions between the ages of three and twenty and give such information concerning them as may be required by the superintendent of public instruction. The board of directors may employ additional persons and compensate the same to aid the superintendent in carrying out such census.

(5) Make to the educational service district superintendent on or before the fifteenth day of October his or her annual report verified by affidavit upon forms to be furnished by the superintendent of public instruction. It shall contain such items of information as said superintendent of public instruction shall require, including the following: A full and complete report of all children enumerated under subsection (4) ~~((above))~~ of this section; the number of schools or departments taught during the year; the number of children, male and female, enrolled in the school, and the average daily attendance; the number of teachers employed, and their compensation per month; the number of days school was taught during the past school year,

and by whom; and the number of volumes, if any, in the school district library; the number of school houses in the district, and the value of them; and the aggregate value of all school furniture and apparatus belonging to the district. The superintendent shall keep on file a duplicate copy of said report.

(6) Give such notice of all annual or special elections as otherwise required by law; also give notice of the regular and special meetings of the board of directors.

(7) Sign all orders for warrants ordered to be issued by the board of directors.

(8) Carry out all orders of the board of directors made at any regular or special meeting.

B. Principals

Sec. 379. Section 3, chapter 97, Laws of 1975-'76 2nd ex. sess. as amended by section 2, chapter 171, Laws of 1980 and RCW 28A.58.201 are each amended to read as follows:

Within each school the school principal shall determine that appropriate student discipline is established and enforced. In order to assist the principal in carrying out the intent of this section, the principal and the certificated employees in a school building shall confer at least annually in order to develop and/or review building disciplinary standards and uniform enforcement of those standards. Such building standards shall be consistent with the provisions of RCW (~~(28A.58.101(3))~~) 28A.600.020(3).

C. Delivery of Materials to Successors

Sec. 380. Section 28A.58.170, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.170 are each amended to read as follows:

Every school official and employee, prior to termination of office or employment, shall deliver to his or her successor all books, papers and moneys pertaining to his or her office or employment.

D. Salary and Compensation

Sec. 381. Section 205, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.58.0951 are each amended to read as follows:

(1) Every school district board of directors shall fix, alter, allow, and order paid salaries and compensation for all district employees in conformance with this section.

(2)(a) Salaries for certificated instructional staff shall not be less than the salary provided in the appropriations act in the state-wide salary allocation schedule for an employee with a baccalaureate degree and zero years of service; and

(b) Salaries for certificated instructional staff with a masters degree shall not be less than the salary provided in the appropriations act in the

state-wide salary allocation schedule for an employee with a masters degree and zero years of service;

(3)(a) The actual average salary paid to basic education certificated instructional staff shall not exceed the district's average basic education certificated instructional staff salary used for the state basic education allocations for that school year as determined pursuant to RCW (~~(28A.41-412)~~) 28A.150.410.

(b) Fringe benefit contributions for basic education certificated instructional staff shall be included as salary under (a) of this subsection to the extent that the district's actual average benefit contribution exceeds the greater of: (i) The formula amount for insurance benefits provided per certificated instructional staff unit in the state operating appropriations act in effect at the time the compensation is payable; or (ii) the actual average amount provided by the school district in the 1986-87 school year. For purposes of this section, fringe benefits shall not include payment for unused leave for illness or injury under RCW (~~(28A.58.096)~~) 28A.400.210, or employer contributions for old age survivors insurance, workers' compensation, unemployment compensation, and retirement benefits under the Washington state retirement system.

(c) Salary and benefits for certificated instructional staff in programs other than basic education shall be consistent with the salary and benefits paid to certificated instructional staff in the basic education program.

(4) Salaries and benefits for certificated instructional staff may exceed the limitations in subsection (3) of this section only by separate contract for additional time, additional responsibilities, or incentives. Supplemental contracts shall not cause the state to incur any present or future funding obligation. Supplemental contracts shall be subject to the collective bargaining provisions of chapter 41.59 RCW and the provisions of RCW (~~(28A.67-074)~~) 28A.405.240, shall not exceed one year, and if not renewed shall not constitute adverse change in accordance with RCW (~~(28A.58.450 through 28A.58.515)~~) 28A.405.300 through 28A.405.380. No district may enter into a supplemental contract under this subsection for the provision of services which are a part of the basic education program required by Article IX, section 3 of the state Constitution.

E. Hiring and Discharge

Sec. 382. Section 3, chapter 275, Laws of 1983 as amended by section 1, chapter 46, Laws of 1985 and by section 1, chapter 210, Laws of 1985 and RCW 28A.58.099 are each reenacted and amended to read as follows:

Every board of directors, unless otherwise specially provided by law, shall:

(1) Employ for not more than one year, and for sufficient cause discharge all certificated and noncertificated employees;

(2) Adopt written policies granting leaves to persons under contracts of employment with the school district(s) in positions requiring either certification or noncertification qualifications, including but not limited to leaves for attendance at official or private institutes and conferences and sabbatical leaves for employees in positions requiring certification qualification, and leaves for illness, injury, bereavement and, emergencies for both certificated and noncertificated employees, and with such compensation as the board of directors prescribe: PROVIDED, That the board of directors shall adopt written policies granting to such persons annual leave with compensation for illness, injury and emergencies as follows:

(a) For such persons under contract with the school district for a full year, at least ten days;

(b) For such persons under contract with the school district as part time employees, at least that portion of ten days as the total number of days contracted for bears to one hundred eighty days;

(c) For certificated and noncertificated employees, annual leave with compensation for illness, injury, and emergencies shall be granted and accrue at a rate not to exceed twelve days per year; provisions of any contract in force on June 12, 1980, which conflict with requirements of this subsection shall continue in effect until contract expiration; after expiration, any new contract executed between the parties shall be consistent with this subsection;

(d) Compensation for leave for illness or injury actually taken shall be the same as the compensation such person would have received had such person not taken the leave provided in this proviso;

(e) Leave provided in this proviso not taken shall accumulate from year to year up to a maximum of one hundred eighty days for the purposes of RCW ((~~28A.58.096 and 28A.58.098~~) 28A.400.210 and 28A.400.220, and for leave purposes up to a maximum of the number of contract days agreed to in a given contract, but not greater than one year. Such accumulated time may be taken at any time during the school year or up to twelve days per year may be used for the purpose of payments for unused sick leave.

(f) Sick leave heretofore accumulated under section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) and sick leave accumulated under administrative practice of school districts prior to the effective date of section 1, chapter 195, Laws of 1959 (former RCW 28.58.430) is hereby declared valid, and shall be added to leave for illness or injury accumulated under this proviso;

(g) Any leave for injury or illness accumulated up to a maximum of forty-five days shall be creditable as service rendered for the purpose of determining the time at which an employee is eligible to retire, if such leave is taken it may not be compensated under the provisions of RCW ((~~28A.58-096 and 28A.21.360~~) 28A.400.210 and 28A.310.490;

(h) Accumulated leave under this proviso shall be transferred to and from one district to another, the office of superintendent of public instruction and offices of educational service district superintendents and boards, to and from such districts and such offices;

(i) Leave accumulated by a person in a district prior to leaving said district may, under rules and regulations of the board, be granted to such person when ~~((he))~~ the person returns to the employment of the district.

When any certificated or classified employee leaves one school district within the state and commences employment with another school district within the state, ~~((he))~~ the employee shall retain the same seniority, leave benefits and other benefits that ~~((he))~~ the employee had in his or her previous position: PROVIDED, That classified employees who transfer between districts after July 28, 1985, shall not retain any seniority rights other than longevity when leaving one school district and beginning employment with another. If the school district to which the person transfers has a different system for computing seniority, leave benefits, and other benefits, then the employee shall be granted the same seniority, leave benefits and other benefits as a person in that district who has similar occupational status and total years of service.

Sec. 383. Section 3, chapter 320, Laws of 1989 and RCW 28A.58.1001 are each amended to read as follows:

(1) The school district board of directors shall immediately terminate the employment of any classified employee who has contact with children during the course of his or her employment upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

(2) The employee shall have a right of appeal under chapter ~~((28A-88))~~ 28A.645 RCW including any right of appeal under a collective bargaining agreement.

F. Insurance

32. Certificated Employees

A. Qualifications

Sec. 384. Section 28A.67.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.67.030 are each amended to read as follows:

No person, whose certificate or permit authorizing him or her to teach in the common schools of this state has been revoked due to his or her failure to endeavor to impress on the minds of his or her pupils the principles of

patriotism, or to train them up to the true comprehension of the rights, duty and dignity of American citizenship, shall be permitted to teach in any common school in this state.

Sec. 385. Section 28A.67.035, chapter 223, Laws of 1969 ex. sess. and RCW 28A.67.035 are each amended to read as follows:

Any person teaching in any school in violation of RCW (~~28A.67.020 or 28A.67.030~~) 28A.405.020 or 28A.405.040, and any school director knowingly permitting any person to teach in any school in violation of RCW (~~28A.67.020 or 28A.67.030~~) 28A.405.020 or 28A.405.040, shall be guilty of a misdemeanor.

B. Criteria for Evaluation and Model Programs

Sec. 386. Section 22, chapter 34, Laws of 1969 ex. sess. as last amended by section 6, chapter 420, Laws of 1985 and RCW 28A.67.065 are each amended to read as follows:

(1) The superintendent of public instruction shall establish and may amend from time to time minimum criteria for the evaluation of the professional performance capabilities and development of certificated classroom teachers and certificated support personnel. For classroom teachers the criteria shall be developed in the following categories: Instructional skill; classroom management, professional preparation and scholarship; effort toward improvement when needed; the handling of student discipline and attendant problems; and interest in teaching pupils and knowledge of subject matter.

Every board of directors shall, in accordance with procedure provided in RCW 41.59.010 through 41.59.170, 41.59.910 and 41.59.920, establish evaluative criteria and procedures for all certificated classroom teachers and certificated support personnel. The evaluative criteria must contain as a minimum the criteria established by the superintendent of public instruction pursuant to this section and must be prepared within six months following adoption of the superintendent of public instruction's minimum criteria. The district must certify to the superintendent of public instruction that evaluative criteria have been so prepared by the district.

Except as provided in subsection (5) of this section, it shall be the responsibility of a principal or his or her designee to evaluate all certificated personnel in his or her school. During each school year all classroom teachers and certificated support personnel, hereinafter referred to as "employees" in this section, shall be observed for the purposes of evaluation at least twice in the performance of their assigned duties. Total observation time for each employee for each school year shall be not less than sixty minutes. Following each observation, or series of observations, the principal or other evaluator shall promptly document the results of the evaluation in writing, and shall provide the employee with a copy thereof within three days after such report is prepared. New employees shall be observed at least once for a

total observation time of thirty minutes during the first ninety calendar days of their employment period.

Every employee whose work is judged unsatisfactory based on district evaluation criteria shall be notified in writing of stated specific areas of deficiencies along with a suggested specific and reasonable program for improvement on or before February 1st of each year. A probationary period shall be established beginning on or before February 1st and ending no later than May 1st. The purpose of the probationary period is to give the employee opportunity to demonstrate improvements in his or her areas of deficiency. The establishment of the probationary period and the giving of the notice to the employee of deficiency shall be by the school district superintendent and need not be submitted to the board of directors for approval. During the probationary period the evaluator shall meet with the employee at least twice monthly to supervise and make a written evaluation of the progress, if any, made by the employee. The evaluator may authorize one additional certificated employee to evaluate the probationer and to aid the employee in improving his or her areas of deficiency; such additional certificated employee shall be immune from any civil liability that might otherwise be incurred or imposed with regard to the good faith performance of such evaluation. The probationer may be removed from probation if he or she has demonstrated improvement to the satisfaction of the principal in those areas specifically detailed in his or her initial notice of deficiency and subsequently detailed in his or her improvement program. Lack of necessary improvement shall be specifically documented in writing with notification to the probationer and shall constitute grounds for a finding of probable cause under RCW (~~(28A.58.450 or 28A.67.070, as now or hereafter amended)~~) 28A.405.300 or 28A.405.210.

The establishment of a probationary period shall not be deemed to adversely affect the contract status of an employee within the meaning of RCW (~~(28A.58.450, as now or hereafter amended)~~) 28A.405.300.

(2) Every board of directors shall establish evaluative criteria and procedures for all superintendents, principals, and other administrators. It shall be the responsibility of the district superintendent or his or her designee to evaluate all administrators. Such evaluation shall be based on the administrative position job description. Such criteria, when applicable, shall include at least the following categories: Knowledge of, experience in, and training in recognizing good professional performance, capabilities and development; school administration and management; school finance; professional preparation and scholarship; effort toward improvement when needed; interest in pupils, employees, patrons and subjects taught in school; leadership; and ability and performance of evaluation of school personnel.

(3) Each certificated employee shall have the opportunity for confidential conferences with his or her immediate supervisor on no less than two occasions in each school year. Such confidential conference shall have as its

sole purpose the aiding of the administrator in his or her professional performance.

(4) The failure of any evaluator to evaluate or supervise or cause the evaluation or supervision of certificated employees or administrators in accordance with this section, as now or hereafter amended, when it is his or her specific assigned or delegated responsibility to do so, shall be sufficient cause for the nonrenewal of any such evaluator's contract under RCW (~~(28A.67.070, as now or hereafter amended)~~) 28A.405.210, or the discharge of such evaluator under RCW (~~(28A.58.450, as now or hereafter amended)~~) 28A.405.300.

(5) After an employee has four years of satisfactory evaluations under subsection (1) of this section, a school district may use a short form of evaluation. The short form of evaluation shall include either a thirty minute observation during the school year with a written summary or a final annual written evaluation based on the criteria in subsection (1) of this section and based on at least two observation periods during the school year totaling at least sixty minutes without a written summary of such observations being prepared. However, the evaluation process set forth in subsection (1) of this section shall be followed at least once every three years and an employee or evaluator may request that the evaluation process set forth in subsection (1) of this section be conducted in any given school year. The short form evaluation process may not be used as a basis for determining that an employee's work is unsatisfactory under subsection (1) of this section nor as probable cause for the nonrenewal of an employee's contract under RCW (~~(28A.67.070)~~) 28A.405.210.

Sec. 387. Section 5, chapter 420, Laws of 1985 and RCW 28A.67.220 are each amended to read as follows:

After an evaluation conducted pursuant to RCW (~~(28A.67.065)~~) 28A.405.100, the school district may require the teacher to take in-service training provided by the district in the area of teaching skills needing improvement.

Sec. 388. Section 7, chapter 420, Laws of 1985 as last amended by section 1, chapter 241, Laws of 1988 and RCW 28A.67.225 are each amended to read as follows:

(1) The superintendent of public instruction shall develop for field-test purposes, and in consultation with local school directors, administrators, parents, students, the business community, and teachers, minimum procedural standards for evaluations of certificated classroom teachers and certificated support personnel. The minimum procedural standards for evaluation shall be based on available research and shall include: (a) A statement of the purpose of evaluations; (b) the frequency of evaluations, with recognition of the need for more frequent evaluations for beginning teachers; (c) the conduct of the evaluation; (d) the procedure to be used in making the evaluation; and (e) the use of the results of the evaluation.

The superintendent of public instruction shall propose the minimum procedural standards for field tests not later than July 1, 1986.

(2) The superintendent of public instruction shall develop or purchase and conduct field tests in local districts during the 1987-88 and 1988-89 school years model evaluation programs, including standardized evaluation instruments, which meet the minimum standards developed pursuant to subsection (1) of this section and the minimum criteria established pursuant to RCW ((28A.67.065)) 28A.405.100. In consultation with school directors, administrators, parents, students, the business community, and teachers, the superintendent of public instruction shall consider a variety of programs such as programs providing for peer review and evaluation input by parents, input by students in appropriate circumstances, instructional assistance teams, and outside professional evaluation. Such programs shall include specific indicators of performance or detailed work expectations against which performance can be measured. The superintendent of public instruction shall compensate any district participating in such tests for the actual expenses incurred by the district.

(3) Not later than September 1, 1989, the superintendent of public instruction shall adopt state procedural standards and select from one to five model evaluation programs which may be used by local districts in conducting evaluations pursuant to RCW ((28A.67.065(+))) 28A.405.100(1). Local school districts shall establish and implement an evaluation program on or before September 1, 1990, by selecting one of the models approved by the superintendent of public instruction or by adopting an evaluation program pursuant to the bargaining process set forth in chapters 41.56 and 41.59 RCW. Local school districts may adopt an evaluation program which contains criteria and standards in excess of the minimum criteria and standards established by the superintendent of public instruction.

(4) The superintendent of public instruction shall report to the legislature on the progress of the development and field testing of minimum procedural standards and model evaluation programs on or before January 1, 1987, January 1, 1988, and January 1, 1989.

Sec. 389. Section 8, chapter 420, Laws of 1985 and RCW 28A.67.230 are each amended to read as follows:

The superintendent of public instruction shall provide technical assistance to local districts for implementation of the minimum standards and model evaluation programs selected under RCW ((28A.67.225)) 28A.405.150.

C. Conditions and Contracts of Employment

Sec. 390. Section 16, chapter 15, Laws of 1970 ex. sess. as last amended by section 11, chapter 56, Laws of 1983 and by section 1, chapter 83, Laws of 1983 and RCW 28A.67.070 are each reenacted and amended to read as follows:

No teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with a school district, hereinafter referred to as "employee", shall be employed except by written order of a majority of the directors of the district at a regular or special meeting thereof, nor unless he or she is the holder of an effective teacher's certificate or other certificate required by law or the state board of education for the position for which the employee is employed.

The board shall make with each employee employed by it a written contract, which shall be in conformity with the laws of this state, and except as otherwise provided by law, limited to a term of not more than one year. Every such contract shall be made in duplicate, one copy to be retained by the school district superintendent or secretary and one copy to be delivered to the employee. No contract shall be offered by any board for the employment of any employee who has previously signed an employment contract for that same term in another school district of the state of Washington unless such employee shall have been released from his or her obligations under such previous contract by the board of directors of the school district to which he or she was obligated. Any contract signed in violation of this provision shall be void.

In the event it is determined that there is probable cause or causes that the employment contract of an employee should not be renewed by the district for the next ensuing term such employee shall be notified in writing on or before May 15th preceding the commencement of such term of that determination, which notification shall specify the cause or causes for nonrenewal of contract. Such determination of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notice shall be served upon the employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, ((chairman)) chair or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for hearing pursuant to RCW ((28A.58.455)) 28A.405.310 to determine whether there is sufficient cause or causes for nonrenewal of contract: PROVIDED, That any employee receiving notice of nonrenewal of contract due to an enrollment decline or loss of revenue may, in his or her request for a hearing, stipulate that initiation of the arrangements for a hearing officer as provided for by RCW ((28A.58.455(4))) 28A.405.310(4) shall occur within ten days following July 15 rather than the day that the employee submits the request for a hearing. If any such notification or opportunity for hearing is not timely given, the employee entitled thereto shall be conclusively presumed to have been reemployed by the district for the next ensuing term upon contractual

terms identical with those which would have prevailed if his or her employment had actually been renewed by the board of directors for such ensuing term.

This section shall not be applicable to "provisional employees" as so designated in RCW (~~(28A.67.072)~~) 28A.405.220; transfer to a subordinate certificated position as that procedure is set forth in RCW (~~(28A.67.073)~~) 28A.405.230 shall not be construed as a nonrenewal of contract for the purposes of this section.

Sec. 391. Section 1, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.67.072 are each amended to read as follows:

Notwithstanding the provisions of RCW (~~(28A.67.070 as now or hereafter amended)~~) 28A.405.210, every person employed by a school district in a teaching or other nonsupervisory certificated position shall be subject to nonrenewal of employment contract as provided in this section during the first year of employment by such district. Employees as defined in this section shall hereinafter be referred to as "provisional employees".

In the event the superintendent of the school district determines that the employment contract of any provisional employee should not be renewed by the district for the next ensuing term such provisional employee shall be notified thereof in writing on or before May 15th preceding the commencement of such school term, which notification shall state the reason or reasons for such determination. Such notice shall be served upon the provisional employee personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein. The determination of the superintendent shall be subject to the evaluation requirements of RCW (~~(28A.67.065, as now or hereafter amended)~~) 28A.405.100.

Every such provisional employee so notified, at his or her request made in writing and filed with the superintendent of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the superintendent for the purpose of requesting the superintendent to reconsider his or her decision. Such meeting shall be held no later than ten days following the receipt of such request, and the provisional employee shall be given written notice of the date, time and place of meeting at least three days prior thereto. At such meeting the provisional employee shall be given the opportunity to refute any facts upon which the superintendent's determination was based and to make any argument in support of his or her request for reconsideration.

Within ten days following the meeting with the provisional employee, the superintendent shall either reinstate the provisional employee or shall submit to the school district board of directors for consideration at its next regular meeting a written report recommending that the employment contract of the provisional employee be nonrenewed and stating the reason or reasons therefor. A copy of such report shall be delivered to the provisional

employee at least three days prior to the scheduled meeting of the board of directors. In taking action upon the recommendation of the superintendent, the board of directors shall consider any written communication which the provisional employee may file with the secretary of the board at any time prior to that meeting.

The board of directors shall notify the provisional employee in writing of its final decision within ten days following the meeting at which the superintendent's recommendation was considered. The decision of the board of directors to nonrenew the contract of a provisional employee shall be final and not subject to appeal.

This section applies to any person employed by a school district in a teaching or other nonsupervisory certificated position after June 25, 1976. This section provides the exclusive means for nonrenewing the employment contract of a provisional employee and no other provision of law shall be applicable thereto, including, without limitation, RCW ((~~28A.67.070, and chapter 28A.88 RCW, as now or hereafter amended~~)) 28A.405.210 and chapter 28A.645 RCW.

Sec. 392. Section 9, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.67.073 are each amended to read as follows:

Any certificated employee of a school district employed as an assistant superintendent, director, principal, assistant principal, coordinator, or in any other supervisory or administrative position, hereinafter in this section referred to as "administrator", shall be subject to transfer, at the expiration of the term of his or her employment contract, to any subordinate certificated position within the school district. "Subordinate certificated position" as used in this section, shall mean any administrative or nonadministrative certificated position for which the annual compensation is less than the position currently held by the administrator.

Every superintendent determining that the best interests of the school district would be served by transferring any administrator to a subordinate certificated position shall notify that administrator in writing on or before May 15th preceding the commencement of such school term of that determination, which notification shall state the reason or reasons for the transfer, and shall identify the subordinate certificated position to which the administrator will be transferred. Such notice shall be served upon the administrator personally, or by certified or registered mail, or by leaving a copy of the notice at the place of his or her usual abode with some person of suitable age and discretion then resident therein.

Every such administrator so notified, at his or her request made in writing and filed with the president or ((~~chairman~~)) chair, or secretary of the board of directors of the district within ten days after receiving such notice, shall be given the opportunity to meet informally with the board of directors in an executive session thereof for the purpose of requesting the board to reconsider the decision of the superintendent. Such board, upon

receipt of such request, shall schedule the meeting for no later than the next regularly scheduled meeting of the board, and shall notify the administrator in writing of the date, time and place of the meeting at least three days prior thereto. At such meeting the administrator shall be given the opportunity to refute any facts upon which the determination was based and to make any argument in support of his or her request for reconsideration. The administrator and the board may invite their respective legal counsel to be present and to participate at the meeting. The board shall notify the administrator in writing of its final decision within ten days following its meeting with the administrator. No appeal to the courts shall lie from the final decision of the board of directors to transfer an administrator to a subordinate certificated position: **PROVIDED**, That in the case of principals such transfer shall be made at the expiration of the contract year and only during the first three consecutive school years of employment as a principal by a school district; except that if any such principal has been previously employed as a principal by another school district in the state of Washington for three or more consecutive school years the provisions of this section shall apply only to the first full school year of such employment.

This section applies to any person employed as an administrator by a school district on June 25, 1976 and to all persons so employed at any time thereafter. This section provides the exclusive means for transferring an administrator to a subordinate certificated position at the expiration of the term of his or her employment contract.

Sec. 393. Section 2, chapter 283, Laws of 1969 ex. sess. as amended by section 15, chapter 341, Laws of 1985 and RCW 28A.67.074 are each amended to read as follows:

No certificated employee shall be required to perform duties not described in the contract unless a new or supplemental contract is made, except that in an unexpected emergency the board of directors or school district administration may require the employee to perform other reasonable duties on a temporary basis.

No supplemental contract shall be subject to the continuing contract provisions of (~~Title 28A RCW~~) this title.

Sec. 394. Section 21, chapter 34, Laws of 1969 ex. sess. and RCW 28A.58.445 are each amended to read as follows:

The board of directors of any school district, its employees or agents shall not discriminate in any way against any applicant for a certificated position or any certificated employee

- (1) On account of his or her membership in any lawful organization, or
- (2) For the orderly exercise during off-school hours of any rights guaranteed under the law to citizens generally, or
- (3) For family relationship, except where covered by chapter 42.23 RCW.

The school district personnel file on any certificated employee in the possession of the district, its employees, or agents shall not be withheld at any time from the inspection of that employee.

D. Adverse Change in Contract

Sec. 395. Section 28A.58.450, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.450 are each amended to read as follows:

In the event it is determined that there is probable cause or causes for a teacher, principal, supervisor, superintendent, or other certificated employee, holding a position as such with the school district, hereinafter referred to as "employee", to be discharged or otherwise adversely affected in his or her contract status, such employee shall be notified in writing of that decision, which notification shall specify the probable cause or causes for such action. Such determinations of probable cause for certificated employees, other than the superintendent, shall be made by the superintendent. Such notices shall be served upon that employee personally, or by certified or registered mail, or by leaving a copy of the notice at the house of his or her usual abode with some person of suitable age and discretion then resident therein. Every such employee so notified, at his or her request made in writing and filed with the president, (~~chairman~~) chair of the board or secretary of the board of directors of the district within ten days after receiving such notice, shall be granted opportunity for a hearing pursuant to RCW (~~(28A.58.455)~~) 28A.405.310 to determine whether or not there is sufficient cause or causes for his or her discharge or other adverse action against his or her contract status.

In the event any such notice or opportunity for hearing is not timely given, or in the event cause for discharge or other adverse action is not established by a preponderance of the evidence at the hearing, such employee shall not be discharged or otherwise adversely affected in his or her contract status for the causes stated in the original notice for the duration of his or her contract.

If such employee does not request a hearing as provided herein, such employee may be discharged or otherwise adversely affected as provided in the notice served upon the employee.

Transfer to a subordinate certificated position as that procedure is set forth in RCW (~~(28A.67.073)~~) 28A.405.230 shall not be construed as a discharge or other adverse action against contract status for the purposes of this section.

Sec. 396. Section 5, chapter 114, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 375, Laws of 1987 and RCW 28A.58.455 are each amended to read as follows:

(1) Any employee receiving a notice of probable cause for discharge or adverse effect in contract status pursuant to RCW (~~(28A.58.450, as now or~~

~~hereafter amended~~) 28A.405.300, or any employee, with the exception of provisional employees as defined in RCW (~~(28A.67.072)~~) 28A.405.220, receiving a notice of probable cause for nonrenewal of contract pursuant to RCW (~~(28A.67.070, as now or hereafter amended)~~) 28A.405.210, shall be granted the opportunity for a hearing pursuant to this section.

(2) In any request for a hearing pursuant to RCW (~~(28A.58.450 or 28A.67.070, as now or hereafter amended)~~) 28A.405.300 or 28A.405.210, the employee may request either an open or closed hearing. The hearing shall be open or closed as requested by the employee, but if the employee fails to make such a request, the hearing officer may determine whether the hearing shall be open or closed.

(3) The employee may engage counsel who shall be entitled to represent the employee at the prehearing conference held pursuant to subsection (5) of this section and at all subsequent proceedings pursuant to this section. At the hearing provided for by this section, the employee may produce such witnesses as he or she may desire.

(4) In the event that an employee requests a hearing pursuant to RCW (~~(28A.58.450 or 28A.67.070, as now or hereafter amended)~~) 28A.405.300 or 28A.405.210, a hearing officer shall be appointed in the following manner: Within fifteen days following the receipt of any such request the board of directors of the district or its designee and the employee or employee's designee shall each appoint one nominee. The two nominees shall jointly appoint a hearing officer who shall be a member in good standing of the Washington state bar association or a person adhering to the arbitration standards established by the public employment relations commission and listed on its current roster of arbitrators. Should said nominees fail to agree as to who should be appointed as the hearing officer, either the board of directors or the employee, upon appropriate notice to the other party, may apply to the presiding judge of the superior court for the county in which the district is located for the appointment of such hearing officer, whereupon such presiding judge shall have the duty to appoint a hearing officer who shall, in the judgment of such presiding judge, be qualified to fairly and impartially discharge his or her duties. Nothing herein shall preclude the board of directors and the employee from stipulating as to the identity of the hearing officer in which event the foregoing procedures for the selection of the hearing officer shall be inapplicable. The district shall pay all fees and expenses of any hearing officer selected pursuant to this subsection.

(5) Within five days following the selection of a hearing officer pursuant to subsection (4) (~~hereof~~) of this section, the hearing officer shall schedule a prehearing conference to be held within such five day period, unless the board of directors and employee agree on another date convenient with the hearing officer. The employee shall be given written notice of the date, time, and place of such prehearing conference at least three days prior to the date established for such conference.

(6) The hearing officer shall preside at any prehearing conference scheduled pursuant to subsection (5) of this section and in connection therewith shall:

(a) Issue such subpoenas or subpoenas duces tecum as either party may request at that time or thereafter; and

(b) Authorize the taking of prehearing depositions at the request of either party at that time or thereafter; and

(c) Provide for such additional methods of discovery as may be authorized by the civil rules applicable in the superior courts of the state of Washington; and

(d) Establish the date for the commencement of the hearing, to be within ten days following the date of the prehearing conference, unless the employee requests a continuance, in which event the hearing officer shall give due consideration to such request.

(7) The hearing officer shall preside at any hearing and in connection therewith shall:

(a) Make rulings as to the admissibility of evidence pursuant to the rules of evidence applicable in the superior court of the state of Washington.

(b) Make other appropriate rulings of law and procedure.

(c) Within ten days following the conclusion of the hearing transmit in writing to the board and to the employee, findings of fact and conclusions of law and final decision. If the final decision is in favor of the employee, the employee shall be restored to his or her employment position and shall be awarded reasonable attorneys' fees.

(8) Any final decision by the hearing officer to nonrenew the employment contract of the employee, or to discharge the employee, or to take other action adverse to the employee's contract status, as the case may be, shall be based solely upon the cause or causes specified in the notice of probable cause to the employee and shall be established by a preponderance of the evidence at the hearing to be sufficient cause or causes for such action.

(9) All subpoenas and prehearing discovery orders shall be enforceable by and subject to the contempt and other equity powers of the superior court of the county in which the school district is located upon petition of any aggrieved party.

(10) A complete record shall be made of the hearing and all orders and rulings of the hearing officer and school board.

Sec. 397. Section 28A.58.460, chapter 223, Laws of 1969 ex. sess. as amended by section 14, chapter 34, Laws of 1969 ex. sess. and RCW 28A.58.460 are each amended to read as follows:

Any teacher, principal, supervisor, superintendent, or other certificated employee, desiring to appeal from any action or failure to act upon the part of a school board relating to the discharge or other action adversely affecting his or her contract status, or failure to renew that employee's contract

for the next ensuing term, within thirty days after his or her receipt of such decision or order, may serve upon the ((~~chairman~~)) chair of the school board and file with the clerk of the superior court in the county in which the school district is located a notice of appeal which shall set forth also in a clear and concise manner the errors complained of.

Sec. 398. Section 28A.58.470, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.470 are each amended to read as follows:

The clerk of the superior court, within ten days of ((~~his~~)) receipt of the notice of appeal shall notify in writing the ((~~chairman~~)) chair of the school board of the taking of the appeal, and within twenty days thereafter the school board shall at its expense file the complete transcript of the evidence and the papers and exhibits relating to the decision complained of, all properly certified to be correct.

Sec. 399. Section 28A.58.490, chapter 223, Laws of 1969 ex. sess. as last amended by section 7, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.490 are each amended to read as follows:

If the court enters judgment for the employee, and if the court finds that the probable cause determination was made in bad faith or upon insufficient legal grounds, the court in its discretion may award to the employee a reasonable ((~~attorney's~~)) attorneys' fee for the preparation and trial of his or her appeal, together with his or her taxable costs in the superior court. If the court enters judgment for the employee, in addition to ordering the school board to reinstate or issue a new contract to the employee, the court may award damages for loss of compensation incurred by the employee by reason of the action of the school district.

Sec. 400. Section 28A.58.510, chapter 223, Laws of 1969 ex. sess. and RCW 28A.58.510 are each amended to read as follows:

The provisions of chapter ((~~28A.88~~)) 28A.645 RCW shall not be applicable to RCW ((~~28A.58.450 through 28A.58.500~~)) 28A.405.300 through 28A.405.360.

Sec. 401. Section 18, chapter 34, Laws of 1969 ex. sess. as last amended by section 8, chapter 114, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.515 are each amended to read as follows:

In the event that an employee, with the exception of a provisional employee as defined in RCW ((~~28A.67.072~~)) 28A.405.220, receives a notice of probable cause pursuant to RCW ((~~28A.58.450 or 28A.67.070, as now or hereafter amended;~~)) 28A.405.300 or 28A.405.210 stating that by reason of a lack of sufficient funds or loss of levy election the employment contract of such employee should not be renewed for the next ensuing school term or that the same should be adversely affected, the employee may appeal any said probable cause determination directly to the superior court of the county in which the school district is located. Such appeal shall be perfected by serving upon the secretary of the school board and filing with the clerk of

the superior court a notice of appeal within ten days after receiving the probable cause notice. The notice of appeal shall set forth in a clear and concise manner the action appealed from. The superior court shall determine whether or not there was sufficient cause for the action as specified in the probable cause notice, which cause must be proven by a preponderance of the evidence, and shall base its determination solely upon the cause or causes stated in the notice of the employee. The appeal provided in this section shall be tried as an ordinary civil action: PROVIDED, That the board of directors' determination of priorities for the expenditure of funds shall be subject to superior court review pursuant to the standards set forth in RCW (~~(28A.58.480, as now or hereafter amended)~~) 28A.405.340: PROVIDED FURTHER, That the provisions of RCW (~~(28A.58.490 and 28A.58.500, as now or hereafter amended;)~~) 28A.405.350 and 28A.405.360 shall be applicable thereto.

E. Payroll Deduction

Sec. 402. Section 2, chapter 39, Laws of 1972 ex. sess. and RCW 28A.67.096 are each amended to read as follows:

Nothing in RCW (~~(28A.67.095)~~) 28A.405.400 shall be construed to annul or modify any lawful agreement heretofore entered into between any school district and any representative of its employees or other existing lawful agreements and obligations in effect on May 23, 1972.

F. Teacher Assistance Program

Sec. 403. Section 1, chapter 399, Laws of 1985 as amended by section 1, chapter 507, Laws of 1987 and RCW 28A.67.240 are each amended to read as follows:

The superintendent of public instruction shall adopt rules to establish and operate a teacher assistance program. For the purposes of this section, the terms "mentor teachers," "beginning teachers," and "experienced teachers" may include any person possessing any one of the various certificates issued by the superintendent of public instruction under RCW (~~(28A-70.005)~~) 28A.410.010. The program shall provide for:

(1) Assistance by mentor teachers who will provide a source of continuing and sustained support to beginning teachers, or experienced teachers, or both, both in and outside the classroom. A mentor teacher may not be involved in evaluations under RCW (~~(28A.67.065)~~) 28A.405.100 of a teacher who receives assistance from said mentor teacher under the teacher assistance program established under this (~~(chapter)~~) section. The mentor teachers shall also periodically inform their principals respecting the contents of training sessions and other program activities;

(2) Stipends for mentor teachers and beginning teachers which shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.58.095: PROVIDED, That stipends shall not be subject to the continuing contract provisions of this title;

- (3) Workshops for the training of mentor and beginning teachers;
- (4) The use of substitutes to give mentor teachers, beginning teachers, and experienced teachers opportunities to jointly observe and evaluate teaching situations and to give mentor teachers opportunities to observe and assist beginning and experienced teachers in the classroom;
- (5) Mentor teachers who are superior teachers based on their evaluations, pursuant to (~~chapter 28A.67~~) RCW 28A.405.010 through 28A.405.240, and who hold valid continuing certificates;
- (6) Mentor teachers shall be selected by the district. If a bargaining unit, certified pursuant to RCW 41.59.090 exists within the district, classroom teachers representing the bargaining unit shall participate in the mentor teacher selection process;
- (7) Periodic consultation by the superintendent of public instruction or the superintendent's designee with representatives of educational organizations and associations, including educational service districts and public and private institutions of higher education, for the purposes of improving communication and cooperation and program review; and
- (8) A report to the legislature describing the results of the program to be delivered not later than December 31, 1987.

Sec. 404. Section 3, chapter 142, Laws of 1972 ex. sess. and RCW 28A.67.900 are each amended to read as follows:

Certificated employees subject to the provisions of (~~this chapter~~) RCW 28A.405.010 through 28A.405.240, 28A.405.400 through 28A.405.450, and 28A.405.900 shall not include those certificated employees hired to replace certificated employees who have been granted sabbatical, regular, or other leave by school districts.

It is not the intention of the legislature that this section apply to any regularly hired certificated employee or that the legal or constitutional rights of such employee be limited, abridged, or abrogated.

G. Termination of Certificated Staff

Sec. 405. Section 5, chapter 320, Laws of 1989 and RCW 28A.58.1003 are each amended to read as follows:

The school district shall immediately terminate the employment of any person whose certificate or permit authorized under chapter (~~28A.70 or 28A.67~~) 28A.405 or 28A.410 RCW is subject to revocation under RCW (~~28A.70.160(2)~~) 28A.410.090(2) upon a guilty plea or conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction.

Employment shall remain terminated unless the employee successfully prevails on appeal. This section shall only apply to employees holding a certificate or permit who have contact with children during the course of their employment.

33. Certification

Sec. 406. Section 212, chapter 525, Laws of 1987 as amended by section 2, chapter 29, Laws of 1989 and by section 1, chapter 402, Laws of 1989 and RCW 28A.70.040 are each reenacted and amended to read as follows:

(1) The state board of education shall adopt rules providing that, except as provided in this section, all individuals qualifying for an initial-level teaching certificate after August 31, 1992, shall possess a baccalaureate degree in the arts, sciences, and/or humanities and have fulfilled the requirements for teacher certification pursuant to RCW ((28A.04.120)) 28A.305.130 (1) and (2). The state board of education shall develop and adopt rules establishing baccalaureate degree equivalency standards for certification of vocational instructors performing instructional duties and acquiring initial level certification after August 31, 1992. However, candidates for grades preschool through eight certificates shall have fulfilled the requirements for a major as part of their baccalaureate degree. If the major is in early childhood education, elementary education, or special education, the candidate must have at least thirty quarter hours or twenty semester hours in one academic field.

(2) The state board of education shall study the impact of eliminating the major in education under subsection (1) of this section and submit a report to the legislature by January 15, 1990. The report shall include a recommendation on whether the major in education under subsection (1) of this section should be eliminated.

(3) The initial certificate shall be valid for two years.

(4) Certificate holders may renew the certificate for a three-year period by providing proof of acceptance and enrollment in an approved masters degree program. A second renewal, for a period of two years, may be granted upon recommendation of the degree-granting institution and if the certificate holder can demonstrate substantial progress toward the completion of the masters degree and that the degree will be completed within the two-year extension period. Under no circumstances may an initial certificate be valid for a period of more than seven years.

Sec. 407. Section 17, chapter 15, Laws of 1975-'76 2nd ex. sess. and section 3, chapter 92, Laws of 1975-'76 2nd ex. sess. and RCW 28A.70.110 are each amended to read as follows:

The fee for any certificate, or any renewal thereof, issued by the authority of the state of Washington, and authorizing the holder to teach or perform other professional duties in the public schools of the state shall be

not less than one dollar or such reasonable fee therefor as the state board of education by rule or regulation shall deem necessary therefor. The fee must accompany the application and cannot be refunded unless the application is withdrawn before it is finally considered. The educational service district superintendent, or other official authorized to receive such fee, shall within thirty days transmit the same to the treasurer of the county in which the office of the educational service district superintendent is located, to be by him or her placed to the credit of said school district or educational service district: PROVIDED, That if any school district collecting fees for the certification of professional staff does not hold a professional training institute separate from the educational service district then all such moneys shall be placed to the credit of the educational service district.

Such fees shall be used solely for the purpose of precertification professional preparation, program evaluation, and professional in-service training programs in accord with rules and regulations of the state board of education herein authorized.

Sec. 408. Section 28A.70.160, chapter 223, Laws of 1969 ex. sess. as last amended by section 1, chapter 320, Laws of 1989 and RCW 28A.70-.160 are each amended to read as follows:

(1) Any certificate or permit authorized under the provisions of this chapter, chapter (~~28A.67~~) 28A.405 RCW, or rules and regulations promulgated thereunder may be revoked or suspended by the authority authorized to grant the same upon complaint of any school district superintendent or educational service district superintendent for immorality, violation of written contract, unprofessional conduct, intemperance, or crime against the law of the state.

(2) Any such certificate or permit authorized under this chapter or chapter (~~28A.67~~) 28A.405 RCW shall be revoked by the authority authorized to grant the certificate upon a guilty plea or the conviction of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (excepting motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction. The person whose certificate is in question shall be given an opportunity to be heard. Mandatory permanent revocation upon a guilty plea or the conviction of felony crimes specified under this subsection shall apply to such convictions or guilty pleas which occur after July 23, 1989. Revocation of any certificate or permit authorized under this chapter or chapter (~~28A.67~~) 28A.405 RCW for a guilty plea or criminal conviction occurring prior to July 23, 1989, shall be subject to the provisions of subsection (1) of this section.

Sec. 409. Section 28A.70.170, chapter 223, Laws of 1969 ex. sess. as last amended by section 138, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.70.170 are each amended to read as follows:

Any teacher whose certificate to teach has been questioned by the filing of a complaint by a school district superintendent or educational service district superintendent under RCW (~~(28A.70.160)~~) 28A.410.090 shall have a right to be heard by the issuing authority before his or her certificate is revoked. Any teacher whose certificate to teach has been revoked shall have a right of appeal to the state board of education if notice of appeal is given by written affidavit to the board within thirty days after the certificate is revoked.

An appeal to the state board of education within the time specified shall operate as a stay of revocation proceedings until the next regular or special meeting of said board and until the board's decision has been rendered.

Sec. 410. Section 28A.70.180, chapter 223, Laws of 1969 ex. sess. as amended by section 2, chapter 320, Laws of 1989 and RCW 28A.70.180 are each amended to read as follows:

In case any certificate or permit authorized under this chapter or chapter (~~(28A.67)~~) 28A.405 RCW is revoked, the holder shall not be eligible to receive another certificate or permit for a period of twelve months after the date of revocation. However, if the certificate or permit authorized under this chapter or chapter (~~(28A.67)~~) 28A.405 RCW was revoked because of a guilty plea or the conviction of a felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64-.030, or violation of similar laws of another jurisdiction, the certificate or permit shall not be reinstated.

Sec. 411. Section 3, chapter 254, Laws of 1975 1st ex. sess. and RCW 28A.02.260 are each amended to read as follows:

Notwithstanding any other provision of (~~(Title 28A RCW)~~) this title, the state board of education or superintendent of public instruction shall not require any professional certification or other qualifications of any person elected superintendent of a local school district by that district's board of directors, or any person hired in any manner to fill a position designated as, or which is, in fact, deputy superintendent, or assistant superintendent.

Sec. 412. Section 206, chapter 525, Laws of 1987 and RCW 28A.70-.402 are each amended to read as follows:

As used in RCW (~~28A.70.400 through 28A.70.406~~) 28A.410.150 through 28A.410.180, the term "student teaching" includes all field experiences and opportunities for observation, tutoring, micro-teaching, and extended practicums; clinical and laboratory experiences; and internship experiences in educational settings.

Sec. 413. Section 208, chapter 525, Laws of 1987 and RCW 28A.70.406 are each amended to read as follows:

Any compensation provided to certificated school district employees pursuant to the pilot program established under RCW (~~28A.70.400 through 28A.70.408~~) 28A.410.150 through 28A.410.190 shall not be deemed compensation for the purposes of salary lid compliance under RCW 28A.58.095.

34. Teachers' Institutes, Workshops, and Other In-service Training

Sec. 414. Section 18, chapter 15, Laws of 1975-'76 2nd ex. sess. and RCW 28A.71.100 are each amended to read as follows:

The educational service district board may arrange each year for the holding of one or more teachers' institutes and/or workshops for professional staff preparation and in-service training in such manner and at such time as the board believes will be of benefit to the teachers and other professional staff of school districts within the educational service district and shall comply with rules and regulations of the state board of education pursuant to RCW (~~28A.70.110 as now or hereafter amended~~) 28A.410.060. The board may provide such additional means of teacher and other professional staff preparation and in-service training as it may deem necessary or appropriate and there shall be a proper charge against the educational service district general expense fund when approved by the educational service district board.

Educational service district boards of contiguous educational service districts, by mutual arrangements, may hold joint institutes and/or workshops, the expenses to be shared in proportion to the numbers of certificated personnel as shown by the last annual reports of the educational service districts holding such joint institutes or workshops.

In local school districts employing more than one hundred teachers and other professional staff, the school district superintendent may hold a teachers' institute of one or more days in such district, said institute when so held by the school district superintendent to be in all respects governed by the provisions of this (~~code~~) title and state board of education rules and regulations relating to teachers' institutes held by educational service district superintendents.

Sec. 415. Section 1, chapter 519, Laws of 1987 and RCW 28A.71.110 are each amended to read as follows:

(1) Certificated personnel shall receive for each ten clock hours of approved in-service training attended the equivalent of a one credit college

quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(2) Certificated personnel shall receive for each ten clock hours of approved continuing education earned, as continuing education is defined by rule adopted by the state board of education, the equivalent of a one credit college quarter course on the salary schedule developed by the legislative evaluation and accountability program committee.

(3) An approved in-service training program shall be a program approved by a school district board of directors, which meet standards adopted by the state board of education, and the development of said program has been participated in by an in-service training task force whose membership is the same as provided under RCW (~~(28A.71.210)~~) 28A.415.040, or a program offered by an education agency approved to provide in-service for the purposes of continuing education as provided for under rules adopted by the state board of education, or both.

(4) Clock hours eligible for application to the salary schedule developed by the legislative evaluation and accountability program committee as described in subsections (1) and (2) of this section, shall be those hours acquired after August 31, 1987.

PART IV FINANCE

35. Local Effort Assistance

36. School District Budgets

Sec. 416. Section 2, chapter 118, Laws of 1975-'76 2nd ex. sess. as last amended by section 2, chapter 59, Laws of 1983 and RCW 28A.65.405 are each amended to read as follows:

All school districts must utilize the following methods of revenue and expenditure recognition in budgeting, accounting and financial reporting:

(1) Recognize revenue as defined in RCW (~~(28A.65.400(1))~~) 28A.505.010(1) for all funds: PROVIDED, That school districts that elect the cash basis of expenditure recognition under subsection (2) of this section shall recognize revenue on the cash basis.

(2) Recognition of expenditures for all funds shall be on the accrual basis: PROVIDED, That school districts with under one thousand full time equivalent students for the preceding fiscal year may make a uniform election for all funds, except debt service funds, to be on the cash basis of expenditure recognition. Notification of such election shall be given to the state superintendent of public instruction in the budget of the school district and shall remain in effect for one full fiscal year.

Sec. 417. Section 5, chapter 118, Laws of 1975-'76 2nd ex. sess. as amended by section 3, chapter 59, Laws of 1983 and RCW 28A.65.420 are each amended to read as follows:

Upon completion of their budgets as provided in RCW ((~~28A.65.415~~)) 28A.505.040, every school district shall publish a notice stating that the district has completed the budget and placed the same on file in the school district administration office, that a copy thereof will be furnished any person who will call upon the district for it, and that the board of directors will meet for the purpose of fixing and adopting the budget of the district for the ensuing fiscal year. Such notice shall designate the date, time, and place of said meeting which shall occur no later than the thirty-first day of August for first class school districts, and the first day of August for second class school districts. The notice shall also state that any person may appear thereat and be heard for or against any part of such budget. Said notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in the district, or, if there be none, in a newspaper of general circulation in the county or counties in which such district is a part. The last notice shall be published no later than seven days immediately prior to the hearing.

The district shall provide a sufficient number of copies of the budget to meet the reasonable demands of the public not later than July 20th in the first class school districts, and not later than July 15th in second class school districts. School districts shall submit one copy of their budget to their educational service districts for review and comment by these dates.

Sec. 418. Section 6, chapter 118, Laws of 1975-'76 2nd ex. sess. as amended by section 4, chapter 59, Laws of 1983 and RCW 28A.65.425 are each amended to read as follows:

On the date given in said notice as provided in RCW ((~~28A.65.420~~)) 28A.505.050 the school district board of directors shall meet at the time and place designated. Any person may appear thereat and be heard for or against any part of such budget. Such hearing may be continued not to exceed a total of two days: PROVIDED, That the budget must be adopted no later than August 31st in first class school districts, and not later than August 1st in second class school districts.

Upon conclusion of the hearing, the board of directors shall fix and determine the appropriation from each fund contained in the budget separately, and shall by resolution adopt the budget and the appropriations as so finally determined, and enter the same in the official minutes of the board: PROVIDED, That first class school districts shall file copies of their adopted budget with their educational service district no later than September 3rd, and second class school districts shall forward copies of their adopted budget to their educational service district no later than August 3rd for review, alteration and approval as provided for in RCW ((~~28A.65.430~~)) 28A.505.070 by the budget review committee.

Sec. 419. Section 7, chapter 118, Laws of 1975-'76 2nd ex. sess. and RCW 28A.65.430 are each amended to read as follows:

The budget review committee shall fix and approve the amount of the appropriation from each fund of the budget of second class districts not later than August 31st. No budget review committee shall knowingly approve any budget or appropriation that is in violation of this chapter or rules and regulations adopted by the superintendent of public instruction in accordance with RCW ((~~28A.65.465(1)~~) 28A.505.140(1)). A copy of said budget shall be returned to the local school districts no later than September 10th.

Members of the budget review committee as referred to in this section shall consist of the educational service district superintendent or a representative thereof, a member of the local school district board of directors or a representative thereof, and a representative of the superintendent of public instruction.

Sec. 420. Section 10, chapter 118, Laws of 1975-'76 2nd ex. sess. as amended by section 7, chapter 59, Laws of 1983 and RCW 28A.65.445 are each amended to read as follows:

The budget shall set forth the estimated revenues for the ensuing fiscal year, the estimated revenues for the fiscal year current at the time of budget preparation, the actual revenues for the last completed fiscal year, and the reserved and unreserved fund balances for each year. The estimated revenues from all sources for the ensuing fiscal year shall not include any revenue not anticipated to be available during that fiscal year: PROVIDED, That school districts, pursuant to RCW ((~~28A.65.450~~) 28A.505.110) can be granted permission by the superintendent of public instruction to include as revenues in their budgets, receivables collectible in future fiscal years.

The budget shall set forth by detailed items or classes the estimated expenditures for the ensuing fiscal year, the estimated expenditures for the fiscal year current at the time of budget preparation, and the actual expenditures for the last completed fiscal year. Total salary amounts, full-time equivalents, and the high, low, and average annual salaries, shall be displayed by job classification within each budget classification. If individual salaries within each job classification are not displayed, districts shall provide the individual salaries together with the title or position of the recipient and the total amounts of salary under each budget class upon request. Salary schedules shall be displayed. In districts where negotiations have not been completed, the district may budget the salaries at the current year's rate and restrict fund balance for the amount of anticipated increase in salaries, so long as an explanation shall be attached to the budget on such restriction of fund balance.

Sec. 421. Section 11, chapter 118, Laws of 1975-'76 2nd ex. sess. as amended by section 8, chapter 59, Laws of 1983 and RCW 28A.65.450 are each amended to read as follows:

When a school district board is unable to prepare a budget or budget extension pursuant to RCW ((~~28A.65.480 or 28A.65.485~~) 28A.505.170 or 28A.505.180) in which the estimated revenues for the budgeted fiscal year

plus the estimated fund balance at the beginning of the budgeted fiscal year less the ending reserved fund balance for the budgeted fiscal year do not at least equal the estimated expenditures for the budgeted fiscal year, the school district board may deliver a petition in writing, at least twenty days before the budget or budget extension is scheduled for adoption, to the superintendent of public instruction requesting permission to include receivables collectible in future years, in order to balance the budget. If such permission is granted, it shall be in writing, and it shall contain conditions, binding on the district, designed to improve the district's financial condition. Any budget or appropriation adopted by the board of directors without written permission from the superintendent of public instruction that contains estimated expenditures in excess of the total of estimated revenue for the budgeted fiscal year plus estimated fund balance at the beginning of the budgeted fiscal year less ending reserve fund balance for the budgeted fiscal year shall be null and void and shall not be considered an appropriation.

Sec. 422. Section 14, chapter 118, Laws of 1975-'76 2nd ex. sess. as amended by section 10, chapter 59, Laws of 1983 and RCW 28A.65.465 are each amended to read as follows:

(1) Notwithstanding any other provision of law, the superintendent of public instruction is hereby directed to promulgate such rules and regulations as will insure proper budgetary procedures and practices, including monthly financial statements consistent with the provisions of RCW 43.09-.200, and this chapter.

(2) If the superintendent of public instruction determines upon a review of the budget of any district that said budget does not comply with the budget procedures established by this chapter or by rules and regulations promulgated by the superintendent of public instruction, or the provisions of RCW 43.09.200, ~~((he))~~ the superintendent shall give written notice of this determination to the board of directors of the local school district.

(3) The local school district, notwithstanding any other provision of law, shall, within thirty days from the date the superintendent of public instruction issues a notice pursuant to subsection (2) of this section, submit a revised budget which meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction: PROVIDED, That if the district fails or refuses to submit a revised budget which in the determination of the superintendent of public instruction meets the requirements of RCW 43.09.200, this chapter, and the rules and regulations of the superintendent of public instruction, the matter shall be submitted to the state board of education, which board shall meet and adopt a financial plan which shall be in effect until a budget can be adopted and submitted by the district in compliance with this section.

Sec. 423. Section 15, chapter 118, Laws of 1975-'76 2nd ex. sess. and RCW 28A.65.470 are each amended to read as follows:

Total budgeted expenditures for each fund as adopted in the budget of a school district shall constitute the appropriations of the district for the ensuing fiscal year and the board of directors shall be limited in the incurring of expenditures to the grand total of such appropriations. The board of directors shall incur no expenditures for any purpose in excess of the appropriation for each fund: PROVIDED, That no board of directors shall be prohibited from incurring expenditures for the payment of regular employees, for the necessary repairs and upkeep of the school plant, for the purchase of books and supplies, and for their participation in joint purchasing agencies authorized in RCW (~~(28A.58.107)~~) 28A.320.080 during the interim while the budget is being settled under RCW (~~(28A.65.465)~~) 28A.505.140: PROVIDED FURTHER, That transfers between budget classes may be made by the school district's chief administrative officer or finance officer, subject to such restrictions as may be imposed by the school district board of directors.

Directors, officers or employees who knowingly or negligently violate or participate in a violation of this section by the incurring of expenditures in excess of any appropriation(s) shall be held civilly liable, jointly and severally, for such expenditures in excess of such appropriation(s), including consequential damages following therefrom, for each such violation. If as a result of any civil or criminal action the violation is found to have been done knowingly, such director, officer, or employee who is found to have participated in such breach shall immediately forfeit his or her office or employment, and the judgment in any such action shall so provide.

Nothing in this section shall be construed to limit the duty of the attorney general to carry out the provisions of RCW 43.09.260, as now or hereafter amended.

Sec. 424. Section 17, chapter 118, Laws of 1975-'76 2nd ex. sess. as last amended by section 9, chapter 128, Laws of 1984 and RCW 28A.65-.480 are each amended to read as follows:

(1) Notwithstanding any other provision of this chapter, upon the happening of any emergency in first class school districts caused by fire, flood, explosion, storm, earthquake, epidemic, riot, insurrection, or for the restoration to a condition of usefulness of any school district property, the usefulness of which has been destroyed by accident, and no provision has been made for such expenditures in the adopted appropriation, the board of directors, upon the adoption by the vote of the majority of all board members of a resolution stating the facts constituting the emergency, may make an appropriation therefor without notice or hearing.

(2) Notwithstanding any other provision of this chapter, if in first class districts it becomes necessary to increase the amount of the appropriation, and if the reason is not one of the emergencies specifically enumerated in subsection (1) of this section, the school district board of directors, before

incurring expenditures in excess of the appropriation, shall adopt a resolution stating the facts and the estimated amount of appropriation to meet it.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided in RCW ((28A.65.420)) 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Copies of all adopted appropriation resolutions shall be filed with the educational service district who shall forward one copy each to the office of the superintendent of public instruction. One copy shall be retained by the educational service district.

Sec. 425. Section 18, chapter 118, Laws of 1975-'76 2nd ex. sess. as last amended by section 10, chapter 128, Laws of 1984 and RCW 28A.65.485 are each amended to read as follows:

Notwithstanding any other provision of this chapter, if a second class school district needs to increase the amount of the appropriation from any fund for any reason, the school district board of directors, before incurring expenditures in excess of appropriation, shall adopt a resolution stating the facts and estimating the amount of additional appropriation needed.

Such resolution shall be voted on at a public meeting, notice to be given in the manner provided by RCW ((28A.65.420)) 28A.505.050. Its introduction and passage shall require the vote of a majority of all members of the school district board of directors.

Any person may appear at the meeting at which the appropriation resolution is to be voted on and be heard for or against the adoption thereof.

Upon passage of the appropriation resolution the school district shall petition the superintendent of public instruction for approval to increase the amount of its appropriations in the manner prescribed in rules and regulations for such approval by the superintendent.

Copies of all appropriation resolutions approved by the superintendent of public instruction shall be filed by the office of the superintendent of public instruction with the educational service district.

37. Apportionment to District—District Accounting

Sec. 426. Section 15, chapter 15, Laws of 1970 ex. sess. as last amended by section 1, chapter 136, Laws of 1982 and RCW 28A.48.010 are each amended to read as follows:

On or before the last business day of September 1969 and each month thereafter, the superintendent of public instruction shall apportion from the state general fund to the several educational service districts of the state the proportional share of the total annual amount due and apportionable to such educational service districts for the school districts thereof as follows:

September 9%

October	9%
November	5.5%
December	9%
January	9%
February	9%
March	9%
April	9%
May	5.5%
June	6.0%
July	10.0%
August	10.0%

The annual amount due and apportionable shall be the amount apportionable for all apportionment credits estimated to accrue to the schools during the apportionment year beginning September first and continuing through August thirty-first. Appropriations made for school districts for each year of a biennium shall be apportioned according to the schedule set forth in this section for the fiscal year starting September 1st of the then calendar year and ending August 31st of the next calendar year. The apportionment from the state general fund for each month shall be an amount which will equal the amount due and apportionable to the several educational service districts during such month: PROVIDED, That any school district may petition the superintendent of public instruction for an emergency advance of funds which may become apportionable to it but not to exceed ten percent of the total amount to become due and apportionable during the school districts apportionment year. The superintendent of public instruction shall determine if the emergency warrants such advance and if the funds are available therefor. If ~~(he)~~ the superintendent determines in the affirmative, he or she may approve such advance and, at the same time, add such an amount to the apportionment for the educational service district in which the school district is located: PROVIDED, That the emergency advance of funds and the interest earned by school districts on the investment of temporary cash surpluses resulting from obtaining such advance of state funds shall be deducted by the superintendent of public instruction from the remaining amount apportionable to said districts during that apportionment year in which the funds are advanced.

Sec. 427. Section 28A.48.030, chapter 223, Laws of 1969 ex. sess. as last amended by section 5, chapter 56, Laws of 1983 and RCW 28A.48.030 are each amended to read as follows:

Upon receiving the certificate of apportionment from the superintendent of public instruction the educational service district superintendent shall promptly apportion to the school districts of his or her educational service district the amounts then due and apportionable to such districts as certified by the superintendent of public instruction.

Sec. 428. Section 28A.48.100, chapter 223, Laws of 1969 ex. sess. as last amended by section 28, chapter 118, Laws of 1975-'76 2nd ex. sess. and RCW 28A.48.100 are each amended to read as follows:

The county treasurer of each county of this state shall be ex officio treasurer of the several school districts of their respective counties, and, except as otherwise provided by law, it shall be the duty of each county treasurer:

(1) To receive and hold all moneys belonging to such school districts, and to pay them out only on warrants legally issued.

(2) To certify to the educational service district superintendent and the auditor of his or her county, at least quarterly each year, the amount of all school funds in his or her possession subject to apportionment on the last day of the preceding month, which certificate shall specify the source or sources from which said moneys were derived.

(3) To make annually, on or before the twenty-fifth day of September, a report to the educational service district superintendent and auditor of ((his)) the county, which report shall show the amount of school funds on hand at the beginning of the school year last past belonging to each school district; the amount of funds placed to the credit of each school district during the school year ending August thirty-first, last past, and the sources from which said funds were derived; the amount of warrants registered during the year, the amount of funds disbursed upon warrants of each school district during the year; the amount of funds remaining in ((his)) the treasurer's possession at the close of the school year subject to be paid out upon warrants, and the fund to which said moneys belong; also the amount of all unpaid warrants or bonds appearing upon his or her register at the close of the school year.

(4) ((He shall)) To register all school warrants presented to him or her by the county auditor in a book to be known as the "Treasurer's School District Warrant Register," which register shall show the date issued, number of warrant, to whom issued, amount and purpose, date registered, date advertised, interest if any accruing on said warrant, total as redeemed, date redeemed and to whom paid. If the district has money in the fund on which the warrant is drawn no endorsement on the warrant is necessary, but if there be no money to the credit of the fund on which the warrant is registered ((he)) the treasurer shall endorse on said warrant the following: "This warrant bears interest at percent per annum from until called for payment. County Treasurer, By Deputy." All warrants shall be paid in the order of their presentation to the county treasurer; and it is hereby made the duty of the county treasurer to advertise, at least quarterly, all warrants which he or she is prepared to pay, in the same manner in which he or she is required to advertise county warrants, and after the date fixed in said notice, warrants shall cease to draw interest.

(5) (~~He shall~~) To prepare and submit to each school district superintendent in (~~his~~) the county a written report of the state of the finances of such district on the first day of each month, which report shall be submitted not later than the seventh day of said month, certified to by the county auditor, which report shall contain the balance on hand the first of the preceding month, the funds paid in, warrants paid with interest thereon, if any, the number of warrants issued and not paid, and the balance on hand.

(6) After each monthly settlement with the county commissioners the treasurer of each county shall submit a statement of all canceled warrants of districts to the respective school district superintendents, which statement shall be verified to by the county auditor. The canceled warrants of each district shall be preserved separately and shall at all times be open to inspection by the school district superintendent or by any authorized accountant of such district.

38. Common School Construction Fund

39. Forest Reserve Funds Distribution

Sec. 429. Section 1, chapter 126, Laws of 1982 as amended by section 1, chapter 311, Laws of 1985 and RCW 28A.02.300 are each amended to read as follows:

Of the moneys received by the state from the federal government in accordance with Title 16, section 500, United States Code, fifty percent shall be spent by the counties on public schools or public roads, and fifty percent shall be spent by the counties on public schools as provided in RCW (~~28A.02.310(2))~~ 28A.520.020(2), or for any other purposes as now or hereafter authorized by federal law, in the counties in the United States forest reserve from which such moneys were received. Where the reserve is situated in more than one county, the state treasurer shall determine the proportional area of the counties therein. The state treasurer is authorized and required to obtain the necessary information to enable him or her to make that determination.

The state treasurer shall distribute to the counties, according to the determined proportional area, the money to be spent by the counties. The county legislative authority shall expend the fifty percent received by the county for the benefit of the public roads or public schools of the county, or for any other purposes as now or hereafter authorized by federal law.

Sec. 430. Section 2, chapter 126, Laws of 1982 as amended by section 2, chapter 311, Laws of 1985 and RCW 28A.02.310 are each amended to read as follows:

(1) There shall be a fund known as the federal forest revolving fund. The state treasurer, who shall be custodian of the revolving fund, shall deposit into the revolving fund the funds for each county received by the state in accordance with Title 16, section 500, United States Code. The state

treasurer shall distribute these moneys to the counties according to the determined proportional area. The county legislative authority shall expend fifty percent of the money for the benefit of the public roads and other public purposes as authorized by federal statute or public schools of such county and not otherwise. Disbursements by the counties of the remaining fifty percent of the money shall be as authorized by the superintendent of public instruction, or the superintendent's designee, and shall occur in the manner provided in subsection (2) of this section.

(2) No later than thirty days following receipt of the funds from the federal government, the superintendent of public instruction shall apportion moneys distributed to counties for schools to public school districts in the respective counties in proportion to the number of full time equivalent students enrolled in each public school district to the number of full time equivalent students enrolled in public schools in the county. In apportioning these funds, the superintendent of public instruction shall utilize the October enrollment count.

(3) If the amount received by any public school district pursuant to subsection (2) of this section is less than the basic education allocation to which the district would otherwise be entitled, the superintendent of public instruction shall apportion to the district, in the manner provided by RCW (~~28A.48.010, as now existing or hereafter amended~~) 28A.510.250, an amount which shall be the difference between the amount received pursuant to subsection (2) of this section and the basic education allocation to which the district would otherwise be entitled.

(4) All federal forest funds shall be expended in accordance with the requirements of Title 16, section 500, United States Code, as now existing or hereafter amended.

40. Bond Issues

Sec. 431. Section 28A.47.090, chapter 223, Laws of 1969 ex. sess. as amended by section 36, chapter 141, Laws of 1979 and RCW 28A.47.090 are each amended to read as follows:

It shall be the duty of the superintendent of public instruction, in consultation with the Washington state department of social and health services, to prepare, and so often as ~~((he))~~ the superintendent deems necessary revise, a manual for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance, and operation of school plant facilities for the common schools. In the preparation and revision of the aforesaid manual due consideration shall be given to the presentation of information regarding (1) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW (~~28A.47.050 through 28A.47.120~~) 28A.525.010 through 28A.525.080 and 28A.335.230; (2) procedures in inaugurating and

conducting a school plant planning program for a school district; (3) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (4) the planning of readily expandable and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (5) an acceptable school building maintenance program and the necessity therefor; (6) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (7) any other matters regarded by the aforesaid officer as pertinent or related to the purposes and requirements of RCW ((~~28A.47.050 through 28A.47.120~~)) 28A.525.010 through 28A.525.080 and 28A.335.230.

Sec. 432. Section 28A.47.776, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.776 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW ((~~28A.47.775 through 28A.47.783~~)) 28A.525.100 through 28A.525.116 shall be deposited in the public school building construction account of the general fund and shall be used exclusively for the purposes of carrying out the provisions of RCW ((~~28A.47.775 through 28A.47.783~~)) 28A.525.100 through 28A.525.116, and for payment of the expense incurred in the printing, issuance and sale of such bonds.

Sec. 433. Section 28A.47.777, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.777 are each amended to read as follows:

The public school building bond redemption fund of 1965 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW ((~~28A.47.775 through 28A.47.783~~)) 28A.525.100 through 28A.525.116. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet interest payments on and retirement of bonds authorized by RCW ((~~28A.47.775 through 28A.47.783~~)) 28A.525.100 through 28A.525.116. On July 1st of each year the state treasurer shall deposit such amount in the public school building bond redemption fund of 1965 from moneys transmitted to the state treasurer by the department of revenue and certified by the department of revenue to be sales tax collections and such amount certified by the state finance committee to the state treasurer shall be a prior charge against all retail sales tax revenues of the state of Washington, except that portion thereof heretofore pledged for the payment of bond principal and interest.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein.

Sec. 434. Section 28A.47.778, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.778 are each amended to read as follows:

The legislature may provide additional means for raising funds for the payment of the interest and principal of the bonds authorized by RCW (~~28A.47.775 through 28A.47.783 and RCW 28A.47.775 through 28A.47.783~~) 28A.525.100 through 28A.525.116 shall not be deemed to provide an exclusive method for such payment.

Sec. 435. Section 28A.47.779, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.779 are each amended to read as follows:

The bonds authorized in RCW (~~28A.47.775 through 28A.47.783~~) 28A.525.100 through 28A.525.116 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits.

Sec. 436. Section 28A.47.780, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.780 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW (~~28A.47.775 through 28A.47.783~~) 28A.525.100 through 28A.525.116 funds appropriated to the state board of education from the public school building construction account of the general fund shall be allotted by the state board of education (~~in accordance with the provisions of RCW 28A.47.732 through 28A.47.748~~): PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

Sec. 437. Section 28A.47.781, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.781 are each amended to read as follows:

The following sums, or so much thereof as may be necessary, are hereby appropriated from the public school building construction account of the general fund, from the proceeds of the bonds herein authorized, to carry out the purposes of RCW (~~28A.47.775 through 28A.47.783~~) 28A.525.100 through 28A.525.116: To the state finance committee, sixteen thousand five hundred dollars; to the state board of education, sixteen million four hundred eighty-three thousand five hundred dollars.

Sec. 438. Section 28A.47.782, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.782 are each amended to read as follows:

In accordance with the provisions of RCW (~~28A.47.780~~) 28A.525.110, the state board of education is authorized to allocate the sum

of \$27,753,500 (being (1) \$16,483,500 from the public school building construction account including \$7,403,500 for new community colleges authorized by the 1965 legislature, and (2) \$11,270,000 from the common school construction fund): PROVIDED, That such allocations shall not be binding upon the state in the event that either chapter 158, Laws of 1965 extraordinary session (~~((RCW 28A.47.775 through 28A.47.783))~~), RCW 28A.525.100 through 28A.525.116, or Senate Joint Resolution No. 22, 1965 extraordinary session, is rejected by the people: PROVIDED FURTHER, That expenditures against such allocations shall not exceed the amounts appropriated in chapter 158, Laws of 1965 extraordinary session (~~((RCW 28A.47.775 through 28A.47.783))~~), RCW 28A.525.100 through 28A.525.116, and in chapter 153, Laws of 1965 extraordinary session (ESSB 42) during the 1965-1967 fiscal biennium, or the amounts then currently appropriated for these purposes by future legislatures.

Sec. 439. Section 28A.47.783, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.783 are each amended to read as follows:

Chapter 158, Laws of 1965 extraordinary session (~~((RCW 28A.47.775 through 28A.47.783))~~) RCW 28A.525.100 through 28A.525.116 shall be submitted to the people for their adoption and ratification, or rejection, at the general election to be held in this state on the Tuesday next succeeding the first Monday in November, 1966, in accordance with the provisions of section 3, Article VIII of the state Constitution; and in accordance with the provisions of section 1, Article II of the state Constitution, as amended, and the laws adopted to facilitate the operation thereof.

Sec. 440. Section 28A.47.784, chapter 223, Laws of 1969 ex. sess. as last amended by section 26, chapter 15, Laws of 1970 ex. sess. and RCW 28A.47.784 are each amended to read as follows:

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold limited obligation bonds of the state of Washington in the sum of twenty-two million dollars to be paid and discharged in accordance with terms to be established by the finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-two million dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW (~~((28A.47.784 through 28A.47.791))~~) 28A.525.120 through 28A.525.134 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include

but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW ((~~28A.47.784 through 28A.47.791~~)) 28A.525.120 through 28A.525.134 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW ((~~28A.47.784 through 28A.47.791~~)) 28A.525.120 through 28A.525.134 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide.

Sec. 441. Section 28A.47.785, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.785 are each amended to read as follows:

The common school building construction account of the general fund is hereby created as an account of the general fund and the proceeds from the sale of the bonds authorized by RCW ((~~28A.47.784 through 28A.47.791~~)) 28A.525.120 through 28A.525.134 shall be deposited therein and shall be used exclusively for the purposes of carrying out the provisions of RCW ((~~28A.47.784 through 28A.47.791~~)) 28A.525.120 through 28A.525.134 and for payment of the expense incurred in the printing, issuance and sale of such bonds.

Sec. 442. Section 28A.47.786, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.786 are each amended to read as follows:

Bonds issued under the provisions of RCW (~~(28A.47.784 through 28A.47.791)~~) 28A.525.120 through 28A.525.134 shall distinctly state that they are not a general obligation bond of the state, but are payable in the manner provided in RCW (~~(28A.47.784 through 28A.47.791)~~) 28A.525.120 through 28A.525.134 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW (~~(28A.47.784 through 28A.47.791)~~) 28A.525.120 through 28A.525.134.

Sec. 443. Section 28A.47.787, chapter 223, Laws of 1969 ex. sess. as amended by section 5, chapter 77, Laws of 1969 and RCW 28A.47.787 are each amended to read as follows:

The common school building bond redemption fund of 1967 is hereby created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW [~~(28A.47.784 through 28A.47.791)~~] 28A.525.120 through 28A.525.134 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding] require and compel the transfer and payment of funds as directed herein.

Reviser's note: The bracketed material is omitted statutory text that was the result of a manifest clerical error.

Sec. 444. Section 28A.47.788, chapter 223, Laws of 1969 ex. sess. as amended by section 6, chapter 77, Laws of 1969 and RCW 28A.47.788 are each amended to read as follows:

The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW (~~(28A.47.784 through 28A.47.791)~~) 28A.525.120 through 28A.525.134 from any source or sources not prohibited by the state Constitution and RCW

~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134 shall not be deemed to provide an exclusive method of payment. The power given to the legislature by this section is permissive and shall not be construed to constitute a pledge of general credit of the state of Washington.

Sec. 445. Section 28A.47.789, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.789 are each amended to read as follows:

The bonds authorized in RCW ~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134 shall be fully negotiable instruments and shall be legal investment for all state funds or for funds under state control and all funds of municipal corporations, and shall be legal security for all state, county and municipal deposits.

Sec. 446. Section 28A.47.790, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.790 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW ~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134 funds appropriated to the state board of education from the common school building construction account of the general fund or the common school construction fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

Sec. 447. Section 28A.47.791, chapter 223, Laws of 1969 ex. sess. and RCW 28A.47.791 are each amended to read as follows:

There is hereby appropriated to the state board of education the following sums, or so much thereof as may be necessary, for the purpose of carrying out the provisions of RCW ~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134: (1) Twenty-two million dollars from the common school building construction account and (2) twenty-nine million seven hundred forty-four thousand five hundred and fifty-four dollars from the common school construction fund including three million for modernization of existing school facilities.

In accordance with RCW ~~((28A.47.790))~~ 28A.525.132, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW ~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134 the sum of sixty-three million nine hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section: PROVIDED FURTHER,

That no part of the allocation provided in this section in excess of the total amount appropriated by RCW (~~((28A.47.784 through 28A.47.791))~~ 28A.525.120 through 28A.525.134 shall be allocated unless joint agreement of its necessity shall be determined by the governor and the superintendent of public instruction.

Sec. 448. Section 1, chapter 13, Laws of 1969 as last amended by section 11, chapter 4, Laws of 1985 ex. sess. and RCW 28A.47.792 are each amended to read as follows:

For the purpose of furnishing funds for state assistance to school districts in providing common school plant facilities and modernization of existing common school plant facilities, there shall be issued and sold general obligation bonds of the state of Washington in the sum of twenty-two million five hundred thousand dollars to be paid and discharged in accordance with terms to be established by the state finance committee. The issuance, sale and retirement of said bonds shall be under the general supervision and control of the state finance committee: PROVIDED, That no part of the twenty-six million four hundred thousand dollar bond issue shall be sold unless there are insufficient funds in the common school construction fund to meet appropriations authorized by RCW (~~((28A.47.792 through 28A.47.799 as now or hereafter amended))~~ 28A.525.140 through 28A.525.154 as evidenced by a joint agreement entered into between the governor and the superintendent of public instruction.

The state finance committee is authorized to prescribe the forms of such bonds; the provisions of sale of all or any portion or portions of such bonds; the terms, provisions, and covenants of said bonds, and the sale, issuance and redemption thereof. The covenants of said bonds may include but not be limited to a covenant for the creation, maintenance and replenishment of a reserve account or accounts within the common school building bond redemption fund of 1967 to secure the payment of the principal of and interest on said bonds, into which it shall be pledged there will be paid, from the same sources pledged for the payment of such principal and interest, such amounts at such times which in the opinion of the state finance committee are necessary for the most advantageous sale of said bonds; a covenant that additional bonds which may be authorized by the legislature payable out of the same source or sources may be issued on a parity with the bonds authorized in RCW (~~((28A.47.784 through 28A.47.791, as amended, and in RCW 28A.47.792 through 28A.47.799 as now or hereafter amended))~~ 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 upon compliance with such conditions as the state finance committee may deem necessary to effect the most advantageous sale of the bonds authorized in RCW (~~((28A.47.792 through 28A.47.799 as now or hereafter amended))~~ 28A.525.140 through 28A.525.154 and such additional bonds; and if found reasonably necessary by the state finance committee to accomplish the most advantageous sale of the bonds authorized herein or

any issue or series thereof, such committee may select a trustee for the owners and holders of such bonds or issue or series thereof and shall fix the rights, duties, powers and obligations of such trustee. The money in such reserve account or accounts and in such common school construction fund may be invested in any investments that are legal for the permanent common school fund of the state, and any interest earned on or profits realized from the sale of any such investments shall be deposited in such common school building bond redemption fund of 1967. None of the bonds herein authorized shall be sold for less than the par value thereof.

The committee may provide that the bonds, or any of them, may be called prior to the maturity date thereof under such terms, conditions, and provisions as it may determine and may authorize the use of facsimile signatures in the issuance of such bonds and upon any coupons attached thereto. Such bonds shall be payable at such places as the state finance committee may provide.

Sec. 449. Section 3, chapter 13, Laws of 1969 as amended by section 2, chapter 108, Laws of 1974 ex. sess. and RCW 28A.47.794 are each amended to read as follows:

Bonds issued under the provisions of RCW (~~28A.47.792 through 28A.47.799~~) 28A.525.140 through 28A.525.154 shall distinctly state that they are a general obligation bond of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon and shall contain an unconditional promise to pay such principal and interest as the same shall become due. The principal of and interest on such bonds shall be first payable in the manner provided in RCW (~~28A.47.792 through 28A.47.799~~) 28A.525.140 through 28A.525.154 from that portion of the common school construction fund derived from the interest on the permanent common school fund. That portion of the common school construction fund derived from interest on the permanent common school fund is hereby pledged to the payment of any bonds and the interest thereon issued under the provisions of RCW (~~28A.47.792 through 28A.47.799~~) 28A.525.140 through 28A.525.154.

Sec. 450. Section 4, chapter 13, Laws of 1969 as amended by section 2, chapter 4, Laws of 1971 ex. sess. and RCW 28A.47.795 are each amended to read as follows:

The common school building bond redemption fund of 1967 has been created in the state treasury which fund shall be exclusively devoted to the retirement of the bonds and interest authorized by RCW (~~28A.47.784 through RCW 28A.47.791, as amended, and by RCW 28A.47.792 through 28A.47.799 as now or hereafter amended~~) 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 and to the retirement of and payment of interest on any additional bonds which may be issued on a parity therewith. The state finance committee shall, on or before June thirtieth of each year, certify to the state treasurer the amount needed in

the ensuing twelve months to meet reserve account payments, interest payments on and retirement of bonds payable out of such common school building bond redemption fund of 1967. On July first of each year the state treasurer shall transfer such amount to the common school building bond redemption fund of 1967 from moneys in the common school construction fund certified by the state finance committee to be interest on the permanent common school fund and such amount certified by the state finance committee to the state treasurer shall be a prior charge against that portion of the common school construction fund derived from interest on the permanent common school fund.

The owner and holder of each of said bonds or the trustee for any of the bonds may by mandamus or other appropriate proceeding require and compel the transfer and payment of funds as directed herein.

Sec. 451. Section 5, chapter 13, Laws of 1969 as last amended by section 3, chapter 108, Laws of 1974 ex. sess. and RCW 28A.47.796 are each amended to read as follows:

The legislature may provide additional means for raising funds for the payment of interest and principal of the bonds authorized by RCW (~~(28A.47.792 through 28A.47.799 as now or hereafter amended)~~) 28A.525.140 through 28A.525.154 from any source or sources not prohibited by the state Constitution and RCW (~~(28A.47.792 through 28A.47.799 as now or hereafter amended)~~) 28A.525.140 through 28A.525.154 shall not be deemed to provide an exclusive method of payment.

Sec. 452. Section 7, chapter 13, Laws of 1969 and RCW 28A.47.798 are each amended to read as follows:

For the purpose of carrying out the provisions of RCW (~~(28A.47.792 through 28A.47.799)~~) 28A.525.140 through 28A.525.154 funds appropriated to the state board of education from the common school building construction account of the general fund shall be allotted by the state board of education in accordance with the provisions of RCW 28A.47.732 through 28A.47.748: PROVIDED, That no allotment shall be made to a school district for the purpose aforesaid until such district has provided funds for school building construction purposes through the issuance of bonds or through the authorization of excess tax levies or both in an amount equivalent to ten percent of its taxable valuation or such amount as may be required by the state board of education. The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

Sec. 453. Section 8, chapter 13, Laws of 1969 and RCW 28A.47.799 are each amended to read as follows:

There is hereby appropriated to the state board of education the following sums or so much thereof as may be necessary for the purpose of

carrying out the provisions of RCW (~~(28A.47.792 through 28A.47.799)~~ 28A.525.140 through 28A.525.154; Twenty-six million four hundred thousand dollars from the common school building construction account of the general fund and five million seven hundred and fifty-five thousand four hundred and forty-six dollars from the common school construction fund.

In accordance with RCW (~~(28A.47.798)~~ 28A.525.152, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW (~~(28A.47.792 through 28A.47.799)~~ 28A.525.140 through 28A.525.154 the entire amount of such appropriation as hereinabove in this section provided which is not already allocated for that purpose: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in this section.

Sec. 454. Section 4, chapter 108, Laws of 1974 ex. sess. and RCW 28A.47.7991 are each amended to read as follows:

Any or all of the heretofore issued and outstanding bonds authorized by RCW (~~(28A.47.784 through 28A.47.791, and by RCW 28A.47.792 through 28A.47.799)~~ 28A.525.120 through 28A.525.134 and 28A.525.140 through 28A.525.154 may be refunded by the issuance of general obligation bonds of the state of Washington pursuant to the provisions of chapter 39.53 RCW as heretofore or hereafter amended. Any such refunding general obligation bonds shall be additionally secured as to the payment thereof by a pledge of interest on the permanent common school fund.

Sec. 455. Section 2, chapter 244, Laws of 1969 ex. sess. as last amended by section 1, chapter 321, Laws of 1989 and RCW 28A.47.801 are each amended to read as follows:

(1) Funds appropriated to the state board of education from the common school construction fund shall be allotted by the state board of education in accordance with student enrollment and the provisions of RCW (~~(28A.47.830)~~ 28A.525.200.

(2) No allotment shall be made to a school district until such district has provided matching funds equal to or greater than the difference between the total approved project cost and the amount of state assistance to the district for financing the project computed pursuant to RCW (~~(28A.47-803)~~ 28A.525.146, with the following exceptions:

(a) The state board may waive the matching requirement for districts which have provided funds for school building construction purposes through the authorization of bonds or through the authorization of excess tax levies or both in an amount equivalent to two and one-half percent of the value of its taxable property, as defined in RCW 39.36.015.

(b) No such matching funds shall be required as a condition to the allotment of funds for the purpose of making major or minor structural changes to existing school facilities in order to bring such facilities into compliance with the handicapped access requirements of section 504 of the

federal rehabilitation act of 1973 (29 U.S.C. Sec. 706) and rules implementing the act.

(3) For the purpose of computing the state matching percentage under RCW ((~~28A.47.803~~) 28A.525.166) when a school district is granted authority to enter into contracts, adjusted valuation per pupil shall be calculated using headcount student enrollments from the most recent October enrollment reports submitted by districts to the superintendent of public instruction, adjusted as follows:

(a) In the case of projects for which local bonds were approved after May 11, 1989:

(i) For districts which have been designated as serving high school districts under RCW ((~~28A.56.200~~) 28A.540.110), students residing in the nonhigh district so designating shall be excluded from the enrollment count if the student is enrolled in any grade level not offered by the nonhigh district;

(ii) The enrollment of nonhigh school districts shall be increased by the number of students residing within the district who are enrolled in a serving high school district so designated by the nonhigh school district under RCW ((~~28A.56.200~~) 28A.540.110), including only students who are enrolled in grade levels not offered by the nonhigh school district; and

(iii) The number of preschool handicapped students included in the enrollment ((~~county~~ ~~count~~)) count shall be multiplied by one-half;

(b) In the case of construction or modernization of high school facilities in districts serving students from nonhigh school districts, the adjusted valuation per pupil shall be computed using the combined adjusted valuations and enrollments of each district, each weighted by the percentage of the district's resident high school students served by the high school district; and

(c) The number of kindergarten students included in the enrollment count shall be multiplied by one-half.

(4) The state board of education shall prescribe and make effective such rules and regulations as are necessary to equate insofar as possible the efforts made by school districts to provide capital funds by the means aforesaid.

(5) For the purposes of this section, "preschool handicapped students" means developmentally disabled children of preschool age who are entitled to services under ((~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100) and are not included in the kindergarten enrollment count of the district.

Sec. 456. Section 3, chapter 244, Laws of 1969 ex. sess. as last amended by section 2, chapter 321, Laws of 1989 and RCW 28A.47.802 are each amended to read as follows:

In allotting the state funds provided by RCW ((~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182), the state board of education shall:

(1) Prescribe rules and regulations not inconsistent with RCW ((~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182) governing the administration, control, terms, conditions, and disbursement of allotments to school districts to assist them in providing school plant facilities;

(2) Approve, whenever the board deems such action advisable, allotments to districts that apply for state assistance;

(3) Authorize the payment of approved allotments by warrant of the state treasurer; and

(4) In the event that the amount of state assistance applied for pursuant to the provisions hereof exceeds the funds available for such assistance during any biennium, make allotments on the basis of the urgency of need for school facilities in the districts that apply for assistance or prorate allotments among such districts in conformity with procedures and regulations applicable thereto which shall be established by the board.

Sec. 457. Section 4, chapter 244, Laws of 1969 ex. sess. as last amended by section 3, chapter 321, Laws of 1989 and RCW 28A.47.803 are each amended to read as follows:

Allocations to school districts of state funds provided by RCW ((~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182) shall be made by the state board of education and the amount of state assistance to a school district in financing a school plant project shall be determined in the following manner:

(1) The boards of directors of the districts shall determine the total cost of the proposed project, which cost may include the cost of acquiring and preparing the site, the cost of constructing the building or of acquiring a building and preparing the same for school use, the cost of necessary equipment, taxes chargeable to the project, necessary architects' fees, and a reasonable amount for contingencies and for other necessary incidental expenses: PROVIDED, That the total cost of the project shall be subject to review and approval by the state board of education.

(2) The state matching percentage for a school district shall be computed by the following formula:

The ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil shall be subtracted from three, and then the result of the foregoing shall be divided by three plus (the ratio of the school district's adjusted valuation per pupil divided by the ratio of the total state adjusted valuation per pupil).

$$\begin{array}{rcccl}
 \text{Computed} & & \text{District adjusted} & & \text{Total state ad-} & & & & \\
 \text{State} & & \text{3- valuation per} & & \text{justed valuation} & & & & \\
 \text{Ratio} & = & \text{pupil} & & \text{per pupil} & & & & \\
 & & & & & & & & \\
 & & \text{District adjusted} & & \text{Total state ad-} & & = \text{---\%} & \text{State} & \\
 & & \text{3+ valuation per} & & \text{justed valuation} & & & \text{Assist-} & \\
 & & \text{pupil} & & \text{per pupil} & & & \text{ance} &
 \end{array}$$

PROVIDED, That in the event the percentage of state assistance to any school district based on the above formula is less than twenty percent and such school district is otherwise eligible for state assistance under RCW ((28A.47.800 through 28A.47.811)) 28A.525.160 through 28A.525.182, the state board of education may establish for such district a percentage of state assistance not in excess of twenty percent of the approved cost of the project, if the state board finds that such additional assistance is necessary to provide minimum facilities for housing the pupils of the district.

(3) In addition to the computed percent of state assistance developed in (2) above, a school district shall be entitled to additional percentage points determined by the average percentage of growth for the past three years. One percent shall be added to the computed percent of state assistance for each percent of growth, with a maximum of twenty percent.

(4) The approved cost of the project determined in the manner herein prescribed times the percentage of state assistance derived as provided for herein shall be the amount of state assistance to the district for the financing of the project: PROVIDED, That need therefor has been established to the satisfaction of the state board of education: PROVIDED, FURTHER, That additional state assistance may be allowed if it is found by the state board of education that such assistance is necessary in order to meet (a) a school housing emergency resulting from the destruction of a school building by fire, the condemnation of a school building by properly constituted authorities, a sudden excessive and clearly foreseeable future increase in school population, or other conditions similarly emergent in nature; or (b) a special school housing burden imposed by virtue of the admission of non-resident students into educational programs established, maintained and operated in conformity with the requirements of law; or (c) a deficiency in the capital funds of the district resulting from financing, subsequent to April 1, 1969, and without benefit of the state assistance provided by prior state assistance programs, the construction of a needed school building project or projects approved in conformity with the requirements of such programs, after having first applied for and been denied state assistance because of the inadequacy of state funds available for the purpose, or (d) a condition created by the fact that an excessive number of students live in state owned housing, or (e) a need for the construction of a school building to provide for improved school district organization or racial balance, or (f) conditions similar to those defined under (a), (b), (c), (d) and (e) hereina-bove, creating a like emergency.

Sec. 458. Section 5, chapter 244, Laws of 1969 ex. sess. and RCW 28A.47.804 are each amended to read as follows:

Whenever the voters of a school district authorize the issuance of bonds and/or the levying of excess taxes in an amount sufficient to meet the requirements of RCW (~~(28A.47.804)~~) 28A.525.162 respecting eligibility for state assistance in providing school facilities, the taxable valuation of the district and the percentage of state assistance in providing school facilities prevailing at the time of such authorization shall be the valuation and the percentage used for the purpose of determining the eligibility of the district for an allotment of state funds and the amount or amounts of such allotments, respectively, for all projects for which the voters authorize capital funds as aforesaid, unless a higher percentage of state assistance prevails on the date that state funds for assistance in financing a project are allotted by the state board of education in which case the percentage prevailing on the date of allotment by the state board of funds for each project shall govern: PROVIDED, That if the state board of education determines at any time that there has been undue or unwarranted delay on the part of school district authorities in advancing a project to the point of readiness for an allotment of state funds, the taxable valuation of the school district and the percentage of state assistance prevailing on the date that the allotment is made shall be used for the purposes aforesaid: PROVIDED, FURTHER, That the date herein specified as applicable in determining the eligibility of an individual school district for state assistance and in determining the amount of such assistance shall be applicable also to cases where it is necessary in administering chapter (~~(28A.56)~~) 28A.540 RCW to determine eligibility for and the amount of state assistance for a group of school districts considered as a single school administrative unit.

Sec. 459. Section 6, chapter 244, Laws of 1969 ex. sess. as amended by section 4, chapter 56, Laws of 1974 ex. sess. and RCW 28A.47.805 are each amended to read as follows:

If a school district which has qualified for an allotment of state funds under the provisions of RCW (~~(28A.47.800 through 28A.47.811)~~) 28A.525.160 through 28A.525.182 for school building construction is found by the state board of education to have a school housing emergency requiring an allotment of state funds in excess of the amount allocable under RCW (~~(28A.47.803)~~) 28A.525.166, an additional allotment may be made to such district: PROVIDED, That the total amount allotted shall not exceed ninety percent of the total cost of the approved project which may include the cost of the site and equipment. At any time thereafter when the state board of education finds that the financial position of such school district has improved through an increase in its taxable valuation or through retirement of bonded indebtedness or through a reduction in school housing requirements, or for any combination of these reasons, the amount of such

additional allotment, or any part of such amount as the state board of education determines, shall be deducted, under terms and conditions prescribed by the board, from any state school building construction funds which might otherwise be provided to such district.

Sec. 460. Section 8, chapter 244, Laws of 1969 ex. sess. as last amended by section 39, chapter 141, Laws of 1979 and RCW 28A.47.807 are each amended to read as follows:

It shall be the duty of the state board of education, in consultation with the Washington state department of social and health services, to prepare a manual and/or to specify other materials for the information and guidance of local school district authorities and others responsible for and concerned with the designing, planning, maintenance and operation of school plant facilities for the public schools. In so doing due consideration shall be given to the presentation of information regarding (a) the need for cooperative state-local district action in planning school plant facilities arising out of the cooperative plan for financing said facilities provided for in RCW (~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182; (b) procedures in inaugurating and conducting a school plant planning program for a school district; (c) standards for use in determining the selection and development of school sites and in designing, planning, and constructing school buildings to the end that the health, safety, and educational well-being and development of school children will be served; (d) the planning of readily expansible and flexible school buildings to meet the requirements of an increasing school population and a constantly changing educational program; (e) an acceptable school building maintenance program and the necessity therefor; (f) the relationship of an efficient school building operations service to the health and educational progress of pupils; and (g) any other matters regarded by the state board as pertinent or related to the purposes and requirements of RCW (~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182.

Sec. 461. Section 9, chapter 244, Laws of 1969 ex. sess. as amended by section 6, chapter 56, Laws of 1974 ex. sess. and RCW 28A.47.808 are each amended to read as follows:

The state board of education shall furnish to school districts seeking state assistance under the provisions of RCW (~~28A.47.800 through 28A.47.811~~) 28A.525.160 through 28A.525.182 consultatory and advisory service in connection with the development of school building programs and the planning of school plant facilities.

Sec. 462. Section 10, chapter 244, Laws of 1969 ex. sess. as amended by section 7, chapter 56, Laws of 1974 ex. sess. and RCW 28A.47.809 are each amended to read as follows:

Whenever in the judgment of the state board of education economies may be effected without impairing the usefulness and adequacy of school

buildings, said board may prescribe rules and regulations and establish procedures governing the preparation and use of modifiable basic or standard plans for school building construction projects for which state assistance funds provided by RCW (~~((28A.47.800 through 28A.47.811))~~) 28A.525.160 through 28A.525.182 are allotted.

Sec. 463. Section 11, chapter 244, Laws of 1969 ex. sess. as amended by section 8, chapter 56, Laws of 1974 ex. sess. and RCW 28A.47.810 are each amended to read as follows:

The total amount of funds appropriated under the provisions of RCW (~~((28A.47.800 through 28A.47.811))~~) 28A.525.160 through 28A.525.182 shall be reduced by the amount of federal funds made available during each biennium for school construction purposes under any applicable federal law. The funds appropriated by RCW (~~((28A.47.800 through 28A.47.811))~~) 28A.525.160 through 28A.525.182 and available for allotment by the state board of education shall be reduced by the amount of such federal funds made available. Notwithstanding the foregoing provisions of this section, the total amount of funds appropriated by RCW (~~((28A.47.800 through 28A.47.811))~~) 28A.525.160 through 28A.525.182 shall not be reduced by reason of any grants to any school district of federal moneys paid under Public Law No. 815 or any other federal act authorizing school building construction assistance to federally affected areas.

Sec. 464. Section 12, chapter 244, Laws of 1969 ex. sess. and RCW 28A.47.811 are each amended to read as follows:

In accordance with RCW (~~((28A.47.801))~~) 28A.525.162, the state board of education is authorized to allocate for the purposes of carrying out the provisions of RCW (~~((28A.47.800 through 28A.47.810))~~) 28A.525.160 through 28A.525.180 the sum of forty-three million, two hundred thousand dollars: PROVIDED, That expenditures against such allocation shall not exceed the amount appropriated in RCW (~~((28A.47.800))~~) 28A.525.160.

Sec. 465. Section 1, chapter 227, Laws of 1977 ex. sess. as amended by section 2, chapter 136, Laws of 1985 and RCW 28A.47.830 are each amended to read as follows:

Notwithstanding any other provision of (~~(this chapter)~~) RCW 28A.525.010 through 28A.525.222, the allocation and distribution of funds by the state board of education which are now or may hereafter be appropriated for the purposes of providing assistance in the construction of school plant facilities shall be governed by RCW (~~((28A.47.050, 28A.47.060, 28A.47.073, 28A.47.075, 28A.47.080, 28A.47.090, 28A.47.100, 28A.47.120, and 28A.47.801 through 28A.47.809))~~) 28A.525.010 through 28A.525.080 and 28A.525.162 through 28A.525.178.

Sec. 466. Section 3, chapter 266, Laws of 1984 and RCW 28A.47.842 are each amended to read as follows:

The proceeds from the sale of the bonds authorized in RCW (~~28A-47.841~~) 28A.525.212 shall be deposited in the common school construction fund and shall be used exclusively for the purposes specified in RCW (~~28A-47.841~~) 28A.525.212 and section 887, chapter 57, Laws of 1983 1st ex. sess. and for the payment of expenses incurred in the issuance and sale of the bonds.

Sec. 467. Section 4, chapter 266, Laws of 1984 and RCW 28A.47.843 are each amended to read as follows:

The proceeds from the sale of the bonds deposited under RCW (~~28A-47.842~~) 28A.525.214 in the common school construction fund shall be administered by the state board of education.

Sec. 468. Section 5, chapter 266, Laws of 1984 as amended by section 2, chapter 3, Laws of 1985 ex. sess. and RCW 28A.47.844 are each amended to read as follows:

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized in RCW (~~28A-47.841~~) 28A.525.212. The state finance committee may provide that a special account be created in such fund to facilitate payment of such principal and interest.

The state finance committee shall, on or before June 30th of each year, certify to the state treasurer the amount required for principal and interest on such bonds in accordance with the provisions of the bond proceedings. The state treasurer shall withdraw from any general state revenues received in the state treasury and deposit in the general obligation bond retirement fund, or a special account in such fund, such amounts and at such times as are required by the bond proceedings. On each date on which any interest or principal and interest is due, the state treasurer shall cause an identical amount to be transferred to the general fund of the state treasury from that portion of the common school construction fund derived from the interest on the permanent common school fund. The transfers from the common school construction fund shall be subject to all pledges, liens, and encumbrances heretofore granted or created on the portion of the fund derived from interest on the permanent common school fund. Any deficiency in such transfer shall be made up as soon as moneys are available for transfer and shall constitute a continuing obligation of that portion of the common school construction fund derived from the interest on the permanent common school fund until all deficiencies are fully paid.

Bonds issued under RCW (~~28A-47.841~~) 28A.525.212 shall state that they are a general obligation of the state of Washington, shall pledge the full faith and credit of the state to the payment of the principal thereof and the interest thereon, and shall contain an unconditional promise to pay the principal and interest as the same shall become due.

The owner and holder of each of the bonds or the trustee for the owner and holder of any of the bonds may by mandamus or other appropriate

proceeding require the transfer and payment of funds as directed in this section.

Sec. 469. Section 6, chapter 266, Laws of 1984 and RCW 28A.47.845 are each amended to read as follows:

The legislature may provide additional means for raising moneys for the payment of the principal of and interest on the bonds authorized in RCW ((28A.47.841, and RCW 28A.47.844)) 28A.525.212 and 28A.525.218 shall not be deemed to provide an exclusive method for the payment.

Sec. 470. Section 7, chapter 266, Laws of 1984 and RCW 28A.47.846 are each amended to read as follows:

The bonds authorized in RCW ((28A.47.841)) 28A.525.212 shall be a legal investment for all state funds or funds under state control and for all funds of any other public body.

Sec. 471. Section 1, chapter 141, Laws of 1980 as amended by section 12, chapter 4, Laws of 1985 ex. sess. and RCW 28A.47B.010 are each amended to read as follows:

For the purpose of furnishing funds for state assistance to school districts in providing for the construction of common school plant facilities, the state finance committee is hereby authorized to issue general obligation bonds of the state of Washington in the sum of twenty-two million seven hundred thousand dollars or so much thereof as may be required to provide state assistance to local school districts for the construction of common school plant facilities and to compensate the common school construction fund for the sale of timber from common school, indemnity, and escheat trust lands sold to the parks and recreation commission prior to March 13, 1980, pursuant to RCW 43.51.270 and 43.51.280. The amount of bonds issued under ((this chapter)) RCW 28A.525.230 through 28A.525.300 shall not exceed the fair market value of the timber. No bonds authorized by ((this chapter)) RCW 28A.525.230 through 28A.525.300 shall be offered for sale without prior legislative appropriation and these bonds shall be paid and discharged in not more than thirty years of the date of issuance.

Sec. 472. Section 2, chapter 141, Laws of 1980 and RCW 28A.47B-.020 are each amended to read as follows:

When the state finance committee has determined to issue the general obligation bonds or a portion thereof as authorized in RCW ((28A.47B-.010)) 28A.525.230 it may, pending the issuance thereof, issue in the name of the state temporary notes in anticipation of the issuance of the bonds, which notes shall be designated as "bond anticipation notes." Such portion of the proceeds of the sale of bonds as may be required for the payment of the principal of and redemption premium, if any, and interest on the notes shall be applied thereto when the bonds are issued.

Sec. 473. Section 4, chapter 141, Laws of 1980 and RCW 28A.47B-.040 are each amended to read as follows:

Except for that portion of the proceeds required to pay bond anticipation notes, the proceeds from the sale of the bonds and bond anticipation notes authorized by ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300, and any interest earned on the proceeds, together with all grants, donations, transferred funds, and all other moneys which the state finance committee may direct the state treasurer to deposit therein, shall be deposited in the common school construction fund and shall be used exclusively for the purposes of carrying out ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300, and for payment of the expense incurred in the printing, issuance and sale of the bonds.

Sec. 474. Section 5, chapter 141, Laws of 1980 and RCW 28A.47B-.050 are each amended to read as follows:

The state general obligation bond retirement fund shall be used for the payment of the principal of and interest on the bonds authorized by ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300.

The state finance committee, on or before June 30th of each year, shall certify to the state treasurer the amounts required in the next succeeding twelve months for the payment of the principal of and the interest coming due on the bonds and the dates on which the payments are due. The state treasurer, not less than thirty days prior to the date on which any interest or principal and interest payment is due, shall withdraw from any general state revenues or any other funds constitutionally available and received in the state treasury and deposit in the state general obligation bond retirement fund an amount equal to the amount certified by the state finance committee to be due on the payment date.

Sec. 475. Section 6, chapter 141, Laws of 1980 and RCW 28A.47B-.060 are each amended to read as follows:

The bonds authorized by ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300 shall constitute a legal investment for all state funds or for funds under state control and all funds of municipal corporations.

Sec. 476. Section 7, chapter 141, Laws of 1980 and RCW 28A.47B-.070 are each amended to read as follows:

No provisions of ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300 shall be deemed to repeal, override, or limit any provision of RCW ~~((28A.47.784 through 28A.47.811)) 28A.525.120 through 28A.525.182~~, nor any provision or covenant of the proceedings of the state finance committee acting for and on behalf of the state of Washington heretofore or hereafter taken in the issuance of its revenue or general obligation bonds secured by a pledge of the interest earnings of the permanent common school fund under these statutes.

Sec. 477. Section 8, chapter 141, Laws of 1980 and RCW 28A.47B-.080 are each amended to read as follows:

The proceeds received from the sale of the bonds issued under ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300 which are deposited in the common school construction fund and available for common school construction purposes shall serve as total compensation to the common school construction fund for the proceeds from the sale of timber from trust lands sold prior to March 13, 1980, to the state parks and recreation commission pursuant to RCW 43.51.270 and 43.51.280 which are required to be deposited in the common school construction fund. The superintendent of public instruction and the state board of education shall expend by June 30, 1981, the proceeds received from the bonds issued under ~~((this chapter))~~ RCW 28A.525.230 through 28A.525.300.

41. District Bonds for Land, Buildings, and Equipment

Sec. 478. Section 28A.51.020, chapter 223, Laws of 1969 ex. sess. as last amended by section 11, chapter 186, Laws of 1984 and RCW 28A.51-.020 are each amended to read as follows:

The question whether the bonds shall be issued, as provided in RCW ~~((28A.51.010))~~ 28A.530.010, shall be determined at an election to be held pursuant to RCW 39.36.050. If a majority of the votes cast at such election favor the issuance of such bonds, the board of directors must issue such bonds: PROVIDED, That if the amount of bonds to be issued, together with any outstanding indebtedness of the district that only needs a simple majority voter approval, exceeds three-eighths of one percent of the value of the taxable property in said district, as the term "value of the taxable property" is defined in RCW 39.36.015, then three-fifths of the votes cast at such election must be in favor of the issuance of such bonds, before the board of directors is authorized to issue said bonds.

Sec. 479. Section 28A.51.190, chapter 223, Laws of 1969 ex. sess. as amended by section 26, chapter 167, Laws of 1983 and RCW 28A.51.190 are each amended to read as follows:

Every holder of any of the bonds so issued as a bearer bond as provided in this chapter, within ten days after ~~((he shall))~~ the owner becomes the owner or holder thereof, shall notify the county treasurer of the county in which such bonds are issued of his or her ownership, together with his or her full name and post office address, and the county treasurer of said county ~~((, in addition to the published notice in RCW 28A.51.210 provided for,))~~ shall deposit in the post office, properly stamped and addressed to each owner of any such bonds subject to redemption or payment, a notice in like form, stating the time and place of the redemption of such bonds and the number of the bonds to be redeemed, and in case any owners of bonds shall fail to notify the treasurer of their ownership as aforesaid, then a notice mailed to the last holder of such bonds shall be deemed sufficient, and

any and all such notices so mailed as aforesaid shall be deemed to be personal notice to the holders of such bonds, and at the expiration of the time therein named shall have the force to suspend the interest upon any such bonds.

Sec. 480. Section 28A.51.200, chapter 223, Laws of 1969 ex. sess. and RCW 28A.51.200 are each amended to read as follows:

At any time after the issuance of such bonds as in this chapter provided, and in the discharge of the duties imposed upon said county treasurer, should any incidental expense, costs or charges arise, the said county treasurer shall present his or her claim for the same to the board of directors of the school district issuing such bonds, and the same shall be audited and paid in the same manner as other services are paid under the provisions of law.

42. Validating Indebtedness

Sec. 481. Section 28A.52.020, chapter 223, Laws of 1969 ex. sess. and RCW 28A.52.020 are each amended to read as follows:

Whenever the board of directors of any school district shall deem it advisable to validate and ratify the indebtedness mentioned in RCW ((28A.52.010)) 28A.535.010, they shall provide therefor by resolution, which shall be entered on the records of such school district, which resolution shall provide for the holding of an election for the purpose of submitting the question of validating and ratifying the indebtedness so incurred to the voters of such school district for approval or disapproval, and if at such election three-fifths of the voters in such school district voting at such election shall vote in favor of the validation and ratification of such indebtedness, then such indebtedness so validated and ratified and every part thereof existing at the time of the adoption of said resolution shall thereby become and is hereby declared to be validated and ratified and a binding obligation upon such school district.

Sec. 482. Section 28A.52.030, chapter 223, Laws of 1969 ex. sess. and RCW 28A.52.030 are each amended to read as follows:

At the time of the adoption of the resolution provided for in RCW ((28A.52.020)) 28A.535.020, the board of directors shall direct the school district superintendent to give notice to the county auditor of the suggested time and purpose of such election, and specifying the amount and general character of the indebtedness proposed to be ratified. Such superintendent shall also cause written or printed notices to be posted in at least five places in such school district at least twenty days before such election. In addition to his or her other duties relating thereto, the county auditor shall give notice of such election as provided for in RCW 29.27.080.

Sec. 483. Section 28A.52.060, chapter 223, Laws of 1969 ex. sess. as amended by section 30, chapter 167, Laws of 1983 and RCW 28A.52.060 are each amended to read as follows:

If bonds issued under this chapter are not sold as herein provided, the owners of unpaid warrants drawn on the county treasurer by such district for an indebtedness existing at the time of the adoption of the resolution mentioned in RCW (~~28A.52.020~~) 28A.535.020, may exchange said warrants at the face value thereof and accrued interest thereon for bonds issued under this chapter, at not less than par value and accrued interest of such bonds at the time of the exchange; such exchange to be made under such regulations as may be provided by the board of directors of such district.

Sec. 484. Section 28A.52.080, chapter 223, Laws of 1969 ex. sess. and RCW 28A.52.080 are each amended to read as follows:

In case any school district has heretofore incurred, or shall hereafter incur, indebtedness for strictly school purposes and has heretofore, or shall hereafter, become merged with another district as provided in (~~chapter 28A.57~~) RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the directors of the last named district may, after such merger, cause to be submitted to the voters within the limits of the district which incurred the obligations, the question of validating and ratifying such indebtedness. The vote shall be taken and the question determined in the manner prescribed in RCW (~~28A.52.020, 28A.52.030 and 28A.52.040~~) 28A.535.020, 28A.535.030, and 28A.535.040. The directors of the district to which the district incurring the obligations was merged shall make provisions for payment of the indebtedness so validated by certifying the amount thereof in the manner prescribed in RCW (~~28A.52.070~~) 28A.535.070: PROVIDED, Such enlarged district may pay a part, or all, of such validating indebtedness from any funds available or by issuing bonds therefor when such enlarged district has taken over property of any district and in making such adjustment and apportionment as provided in (~~chapter 28A.57~~) RCW 28A.315.010 through 28A.315.680 and 28A.315.900, the value of the property received shall be found to exceed the total indebtedness of the district annexed to the extent of such value over the total indebtedness of the district annexed.

43. Capital Fund Aid by Nonhigh Districts

Sec. 485. Section 28A.56.040, chapter 223, Laws of 1969 ex. sess. as last amended by section 35, chapter 385, Laws of 1985 and RCW 28A.56.040 are each amended to read as follows:

Subsequent to the holding of a hearing or hearings as provided in RCW (~~28A.56.030~~) 28A.540.040, the regional committee on school district organization shall determine the nonhigh school districts to be included in the plan and the amount of capital funds to be provided by every school district included therein, and shall submit the proposed plan to the state board of education together with such maps and other materials pertaining thereto as the state board may require. The state board shall review such plan, shall approve any plan which in its judgment makes adequate and

satisfactory provision for participation by the nonhigh school districts in providing capital funds to be used for the purpose above stated, and shall notify the regional committee of such action. Upon receipt by the regional committee of such notification, the educational service district superintendent, or his or her designee, shall notify the board of directors of each school district included in the plan, supplying each board with complete details of the plan and shall state the total amount of funds to be provided and the amount to be provided by each district.

If any such plan submitted by a regional committee is not approved by the state board, the regional committee shall be so notified, which notification shall contain a statement of reasons therefor and suggestions for revision. Within sixty days thereafter the regional committee shall submit to the state board a revised plan which revision shall be subject to approval or disapproval by the state board and the procedural requirements and provisions of law applicable to an original plan submitted to said board.

Sec. 486. Section 28A.56.060, chapter 223, Laws of 1969 ex. sess. as last amended by section 36, chapter 385, Laws of 1985 and RCW 28A.56-.060 are each amended to read as follows:

In the event that a proposal or proposals for providing capital funds as provided in RCW ((28A.56.050)) 28A.540.060 is not approved by the voters of a nonhigh school district a second election thereon shall be held within sixty days thereafter. If the vote of the electors of the nonhigh school district is again in the negative, the high school students residing therein shall not be entitled to admission to the high school under the provisions of RCW ((28A.58.230)) 28A.225.210, following the close of the school year during which the second election is held: PROVIDED, That in any such case the regional committee on school district organization shall determine within thirty days after the date of the aforesaid election the advisability of initiating a proposal for annexation of such nonhigh school district to the school district in which the proposed facilities are to be located or to some other district where its students can attend high school without undue inconvenience: PROVIDED FURTHER, That pending such determination by the regional committee and action thereon as required by law the board of directors of the high school district shall continue to admit high school students residing in the nonhigh school district. Any proposal for annexation of a nonhigh school district initiated by a regional committee shall be subject to the procedural requirements of this chapter respecting a public hearing and submission to and approval by the state board of education. Upon approval by the state board of any such proposal, the educational service district superintendent shall make an order, establishing the annexation.

Sec. 487. Section 28A.56.070, chapter 223, Laws of 1969 ex. sess. as amended by section 37, chapter 385, Laws of 1985 and RCW 28A.56.070 are each amended to read as follows:

In case of failure or refusal by a board of directors of a nonhigh school district to submit a proposal or proposals to a vote of the electors within the time limit specified in RCW (~~(28A.56.050 and 28A.56.060)~~ 28A.540.060 and 28A.540.070), the regional committee on school district reorganization may initiate a proposal for annexation of such nonhigh school district as provided for in RCW (~~(28A.56.060)~~ 28A.540.070).

45. Payment to High School Districts

Sec. 488. Section 1, chapter 264, Laws of 1981 and RCW 28A.44.150 are each amended to read as follows:

The purposes of RCW (~~(28A.44.150 through 28A.44.230)~~ 28A.545.030 through 28A.545.110 and 84.52.0531 are to:

(1) Simplify the annual process of determining and paying the amounts due by nonhigh school districts to high school districts for educating students residing in a nonhigh school district;

(2) Provide for a payment schedule that coincides to the extent practicable with the ability of nonhigh school districts to pay and the need of high school districts for payment; and

(3) Establish that the maximum amount due per annual average full-time equivalent student by a nonhigh school district for each school year is no greater than the maintenance and operation excess tax levy rate per annual average full-time equivalent student levied upon the taxpayers of the high school district.

Sec. 489. Section 2, chapter 264, Laws of 1981 and RCW 28A.44.160 are each amended to read as follows:

The term "student residing in a nonhigh school district" and its equivalent as used in RCW (~~(28A.44.150 through 28A.44.230)~~ 28A.545.030 through 28A.545.110 and 84.52.0531 shall mean any handicapped or nonhandicapped common school age person who resides within the boundaries of a nonhigh school district that does not conduct the particular kindergarten through grade twelve grade which the person has not yet successfully completed and is eligible to enroll in.

Sec. 490. Section 4, chapter 264, Laws of 1981 and RCW 28A.44.180 are each amended to read as follows:

The student enrollment data necessary for the computation of the annual amounts due by nonhigh school districts pursuant to RCW (~~(28A.44.150 through 28A.44.230)~~ 28A.545.030 through 28A.545.110 and 84.52.0531 shall be established as follows:

(1) On or before July tenth preceding the school year, or such other date as may be established by the superintendent of public instruction, each high school district superintendent shall certify to the superintendent of public instruction:

(a) The estimated number of students residing in a nonhigh school district that will be enrolled in the high school district during the school year

which estimate has been mutually agreed upon by the high school district superintendent and the superintendent of each nonhigh school district in which one or more of such students resides;

(b) The total estimated number of kindergarten through twelfth grade annual average full-time equivalent students, inclusive of nonresident students, that will be enrolled in the high school district during the school year;

(c) The actual number of annual average full-time equivalent students provided for in subsections (1)(a) and (b) of this section that were enrolled in the high school district during the regular school term just completed; and

(d) The name, address, and the school district and county of residence of each student residing in a nonhigh school district reported pursuant to this subsection (1), to the extent the same can reasonably be established.

(2) In the event the superintendents of a high school district and a nonhigh school district are unable to reach agreement respecting the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year, the estimate shall be established by the superintendent of public instruction.

Sec. 491. Section 5, chapter 264, Laws of 1981 and RCW 28A.44.190 are each amended to read as follows:

(1) The superintendent of public instruction shall annually determine the estimated amount due by a nonhigh school district to a high school district for the school year as follows:

(a) The total of the high school district's maintenance and operation excess tax levy that has been authorized and determined by the superintendent of public instruction to be allowable pursuant to RCW 84.52.0531, as now or hereafter amended, for collection during the next calendar year, shall first be divided by the total estimated number of annual average full-time equivalent students which the high school district superintendent or the superintendent of public instruction has certified pursuant to RCW ((~~28A-44.180~~) 28A.545.060) will be enrolled in the high school district during the school year;

(b) The result of the calculation provided for in subsection (1)(a) of this section shall then be multiplied by the estimated number of annual average full-time equivalent students residing in the nonhigh school district that will be enrolled in the high school district during the school year which has been established pursuant to RCW ((~~28A-44.180~~) 28A.545.060); and

(c) The result of the calculation provided for in subsection (1)(b) of this section shall be adjusted upward to the extent the estimated amount due by a nonhigh school district for the prior school year was less than the actual amount due based upon actual annual average full-time equivalent student enrollments during the previous school year and the actual per annual average full-time equivalent student maintenance and operation excess

tax levy rate for the current tax collection year, of the high school district, or adjusted downward to the extent the estimated amount due was greater than such actual amount due or greater than such lesser amount as a high school district may have elected to assess pursuant to RCW ((28A.44.210)) 28A.545.090.

(2) The amount arrived at pursuant to subsection (1)(c) of this subsection shall constitute the estimated amount due by a nonhigh school district to a high school district for the school year.

Sec. 492. Section 6, chapter 264, Laws of 1981 and RCW 28A.44.200 are each amended to read as follows:

The estimated amounts due by nonhigh school districts as determined pursuant to RCW ((28A.44.190)) 28A.545.070 shall be paid in two installments. During the month of May of the school year for which the amount is due, each nonhigh school district shall pay to each high school district fifty percent of the total estimated amount due to the high school district for the school year as determined by the superintendent of public instruction pursuant to RCW ((28A.44.190)) 28A.545.070. The remaining fifty percent shall be paid by each nonhigh school district to each high school district during the following November.

Sec. 493. Section 7, chapter 264, Laws of 1981 and RCW 28A.44.210 are each amended to read as follows:

Notwithstanding any provision of RCW ((28A.44.170 through 28A.44.200)) 28A.545.050 through 28A.545.080 to the contrary, any high school district board of directors may elect to assess a nonhigh school district an amount which is less than that otherwise established by the superintendent of public instruction pursuant to RCW ((28A.44.190)) 28A.545.070 to be due. In the event a high school district elects to do so, it shall notify both the superintendent of public instruction and the nonhigh school district of its election and the lesser amount no later than September first following the school year for which the amount is due. In the absence of such notification, each nonhigh school district shall pay the amount otherwise established by the superintendent of public instruction pursuant to RCW ((28A.44.190)) 28A.545.070.

Sec. 494. Section 8, chapter 264, Laws of 1981 as amended by section 7, chapter 61, Laws of 1983 1st ex. sess. and RCW 28A.44.220 are each amended to read as follows:

Unless otherwise agreed to by the board of directors of a nonhigh school district, the amounts which are established as due by a nonhigh school district pursuant to RCW ((28A.44.150 through 28A.44.230)) 28A.545.030 through 28A.545.110 and 84.52.0531, as now or hereafter amended, shall constitute the entire amount which is due by a nonhigh school district for the school year for the education of any and all handicapped and nonhandicapped students residing in the nonhigh school district

who attend a high school district pursuant to RCW (~~(28A.58.230, as now or hereafter amended)~~) 28A.225.210, and for the transportation of such students by a high school district.

Sec. 495. Section 9, chapter 264, Laws of 1981 and RCW 28A.44.230 are each amended to read as follows:

The superintendent of public instruction is hereby empowered to adopt rules pursuant to chapter 34.05 RCW, as now or hereafter amended, deemed necessary or advisable by the superintendent to effect the purposes and implement the provisions of RCW (~~(28A.44.150 through 28A.44.230)~~) 28A.545.030 through 28A.545.110 and 84.52.0531.

45. State School Equalization Fund

PART V STUDENTS, PARENTS, AND COMMUNITY

46. Students

Sec. 496. Section 28A.58.101, chapter 223, Laws of 1969 ex. sess. as last amended by section 2, chapter 173, Laws of 1979 ex. sess. and RCW 28A.58.101 are each amended to read as follows:

Every board of directors, unless otherwise specifically provided by law, shall:

(1) Enforce the rules and regulations prescribed by the superintendent of public instruction and the state board of education for the government of schools, pupils, and certificated employees.

(2) Adopt and make available to each pupil, teacher and parent in the district reasonable written rules and regulations regarding pupil conduct, discipline, and rights, including but not limited to short-term and long-term suspensions. Such rules and regulations shall not be inconsistent with law or the rules and regulations of the superintendent of public instruction or the state board of education and shall include such substantive and procedural due process guarantees as prescribed by the state board of education under RCW (~~(28A.04.132)~~) 28A.305.160. Commencing with the 1976-77 school year, when such rules and regulations are made available to each pupil, teacher and parent, they shall be accompanied by a detailed description of rights, responsibilities and authority of teachers and principals with respect to the discipline of pupils as prescribed by state statutory law, superintendent of public instruction and state board of education rules and regulations and rules and regulations of the school district.

For the purposes of this subsection, computation of days included in "short-term" and "long-term" suspensions shall be determined on the basis of consecutive school days.

(3) Suspend, expel, or discipline pupils in accordance with RCW (~~(28A.04.132)~~) 28A.305.160.

Sec. 497. Section 5, chapter 142, Laws of 1972 ex. sess. as amended by section 1, chapter 171, Laws of 1980 and RCW 28A.58.1011 are each amended to read as follows:

(1) The rules adopted pursuant to RCW (~~(28A.58.101)~~) 28A.600.010 shall be interpreted to insure that the optimum learning atmosphere of the classroom is maintained, and that the highest consideration is given to the judgment of qualified certificated educators regarding conditions necessary to maintain the optimum learning atmosphere.

(2) Any student who creates a disruption of the educational process in violation of the building disciplinary standards while under a teacher's immediate supervision may be excluded by the teacher from his or her individual classroom and instructional or activity area for all or any portion of the balance of the school day or until the principal or designee and teacher have conferred, whichever occurs first: PROVIDED, That except in emergency circumstances, the teacher shall have first attempted one or more alternative forms of corrective action: PROVIDED FURTHER, That in no event without the consent of the teacher shall an excluded student be returned during the balance of that class or activity period.

(3) In order to preserve a beneficial learning environment for all students and to maintain good order and discipline in each classroom, every school district board of directors shall provide that written procedures are developed for administering discipline at each school within the district. Such procedures shall be developed with the participation of parents and the community, and shall provide that the teacher, principal or designee, and other authorities designated by the board of directors, make every reasonable attempt to involve the parent or guardian and the student in the resolution of student discipline problems. Such procedures shall provide that students may be excluded from their individual classes or activities for periods of time in excess of that provided in subsection (2) of this section if such students have repeatedly disrupted the learning of other students: PROVIDED, That the procedures are consistent with the regulations of the state board of education and provide for early involvement of parents in attempts to improve the student's behavior: PROVIDED FURTHER, That pursuant to RCW (~~(28A.58.201)~~) 28A.400.110, the procedures shall assure that all staff work cooperatively toward consistent enforcement of proper student behavior throughout each school as well as within each classroom.

Sec. 498. Section 7, chapter 278, Laws of 1984 and RCW 28A.58.195 are each amended to read as follows:

Each school district board of directors may establish student grading policies which permit teachers to consider a student's attendance in determining the student's overall grade or deciding whether the student should be granted or denied credit. Such policies shall take into consideration the circumstances pertaining to the student's inability to attend school. However, no policy shall be adopted whereby a grade shall be reduced or credit shall

be denied for disciplinary reasons only, rather than for academic reasons, unless due process of law is provided as set forth by the state board of education under RCW ((~~28A.04.132~~) 28A.305.160.

Sec. 499. Section 1, chapter 54, Laws of 1981 as amended by section 14, chapter 341, Laws of 1985 and RCW 28A.58.820 are each amended to read as follows:

Each year high schools in the state of Washington graduate a significant number of students who have distinguished themselves through outstanding academic achievement. The purpose of RCW ((~~28A.58.820 through 28A.58.830~~) 28A.600.100 through 28A.600.150) is to establish a consistent and uniform program which will recognize and honor the accomplishments of these students; encourage and facilitate privately funded scholarship awards among them; stimulate the recruitment of outstanding students to Washington public and private colleges and universities; and allow educational and legislative leaders, as well as the governor, to reaffirm the importance of educational excellence to the future of this state.

Sec. 500. Section 4, chapter 54, Laws of 1981 as amended by section 33, chapter 370, Laws of 1985 and RCW 28A.58.826 are each amended to read as follows:

The higher education coordinating board shall establish a planning committee to develop criteria for screening and selection of the Washington scholars each year in accordance with RCW ((~~28A.58.822(+)~~) 28A.600.110(1)). It is the intent that these criteria shall emphasize scholastic achievement but not exclude such criteria as leadership ability and community contribution in final selection procedures. The Washington scholars planning committee shall have members from selected state agencies and private organizations having an interest and responsibility in education, including but not limited to, the state board of education, the office of superintendent of public instruction, the council of presidents, the state board for community college education, and the Washington friends of higher education.

Sec. 501. Section 5, chapter 54, Laws of 1981 as amended by section 34, chapter 370, Laws of 1985 and RCW 28A.58.828 are each amended to read as follows:

Each year on or before March 1st, the Washington association of secondary school principals shall submit to the higher education coordinating board the names of graduating senior high school students who have been identified and recommended to be outstanding in academic achievement by their school principals based on criteria to be established under RCW ((~~28A.58.826~~) 28A.600.130).

Sec. 502. Section 1, chapter 32, Laws of 1975-'76 2nd ex. sess. and RCW 28A.58.125 are each amended to read as follows:

Each school district board of directors is hereby granted and shall exercise the authority to control, supervise and regulate the conduct of interschool athletic activities and other interschool extracurricular activities of an athletic, cultural, social or recreational nature for students of the district. A board of directors may delegate control, supervision and regulation of any such activity to the Washington Interscholastic Activities Association or any other voluntary nonprofit entity and compensate such entity for services provided, subject to the following conditions:

(1) The voluntary nonprofit entity shall submit an annual report to the state board of education of student appeal determinations, assets, and financial receipts and disbursements at such time and in such detail as the state board shall establish by rule;

(2) The voluntary nonprofit entity shall not discriminate in connection with employment or membership upon its governing board, or otherwise in connection with any function it performs, on the basis of race, creed, national origin, sex or marital status;

(3) Any rules and policies applied by the voluntary nonprofit entity which govern student participation in any interschool activity shall be written and subject to the annual review and approval of the state board of education at such time as it shall establish;

(4) All amendments and repeals of such rules and policies shall be subject to the review and approval of the state board; and

(5) Such rules and policies shall provide for notice of the reasons and a fair opportunity to contest such reasons prior to a final determination to reject a student's request to participate in or to continue in an interschool activity. Any such decision shall be considered a decision of the school district conducting the activity in which the student seeks to participate or was participating and may be appealed pursuant to RCW (~~28A.88.010 through 28A.88.015, as now or hereafter amended~~) 28A.645.010 through 28A.645.030.

Sec. 503. Section 245, chapter 271, Laws of 1989 and RCW 28A.67-.310 are each amended to read as follows:

No right nor expectation of privacy exists for any student as to the use of any locker issued or assigned to a student by a school and the locker shall be subject to search for illegal drugs, weapons, and contraband as provided in RCW (~~28A.67.300 through 28A.67.330~~) 28A.600.210 through 28A.600.240.

Sec. 504. Section 247, chapter 271, Laws of 1989 and RCW 28A.67-.330 are each amended to read as follows:

(1) In addition to the provisions in RCW (~~28A.67.320~~) 28A.600.230, the school principal, vice principal, or principal's designee may search all student lockers at any time without prior notice and without a reasonable suspicion that the search will yield evidence of any particular student's violation of the law or school rule.

(2) If the school principal, vice principal, or principal's designee, as a result of the search, develops a reasonable suspicion that a certain container or containers in any student locker contain evidence of a student's violation of the law or school rule, the principal, vice principal, or principal's designee may search the container or containers according to the provisions of RCW ((28A.67.320(2))) 28A.600.230(2).

47. Parent Access

48. Project Even Start

Sec. 505. Section 104, chapter 518, Laws of 1987 and RCW 28A.130-.010 are each amended to read as follows:

(1) Parents can be the most effective teachers for their children. Providing illiterate or semiliterate parents with opportunities to acquire basic skills and child development knowledge will enhance their ability to assist and support their children in the learning process, and will enhance children's learning experiences in the formal education environment by providing children with the motivation and positive home environment which contribute to enhanced academic performance.

(2) RCW ((28A.130.012 through 28A.130.020)) 28A.610.020 through 28A.610.060 may be known and cited as project even start.

Sec. 506. Section 105, chapter 518, Laws of 1987 and RCW 28A.130-.012 are each amended to read as follows:

Unless the context clearly requires otherwise, the definition in this section shall apply throughout RCW ((28A.130.014 through 28A.130.020)) 28A.610.030 through 28A.610.060.

"Parent" or "parents" means a parent who has less than an eighth grade ability in one or more of the basic skill areas of reading, language arts, or mathematics, as measured by a standardized test, and who has a child or children enrolled in: (1) The state early childhood education and assistance program; (2) a federal head start program; (3) a state or federally funded elementary school basic skills program serving students who have scored below the national average on a standardized test in one or more of the basic skill areas of reading, language arts, or mathematics; or (4) a cooperative nursery school at a community college or vocational technical institute.

Sec. 507. Section 106, chapter 518, Laws of 1987 and RCW 28A.130-.014 are each amended to read as follows:

(1) The superintendent of public instruction, in consultation with the department of community development, the department of social and health services, the state board for community college education, and community-based, nonprofit providers of adult literacy services, shall develop an adult literacy program to serve eligible parents as defined under RCW ((28A-130.012)) 28A.610.020. The program shall give priority to serving parents

with children who have not yet enrolled in school or are in grades kindergarten through three.

(2) In addition to providing basic skills instruction to eligible parents, the program may include other program components which may include transportation, child care, and such other directly necessary activities as may be necessary to accomplish the purposes of RCW (~~(28A.130.012 through 28A.130.020)~~) 28A.610.020 through 28A.610.060.

(3) Parents who elect to participate in training or work programs, as a condition of receiving public assistance, shall have the hours spent in parent participation programs, conducted as part of a federal head start program, or the state early childhood education and assistance program under (~~chapter 28A.34A~~) RCW 28A.215.100 through 28A.215.200 and 28A.215.900 through 28A.215.908, or parent literacy programs under RCW ((28A.130.012 through 28A.130.020)) 28A.610.020 through 28A.610.060, counted toward the fulfillment of their work and training obligation for the receipt of public assistance.

(4) State funds as may be appropriated for project even start shall be used solely to expand and complement, but not supplant, federal funds for adult literary programs.

(5) The superintendent of public instruction shall adopt rules as necessary to carry out the purposes of RCW (~~(28A.130.012 through 28A.130.020)~~) 28A.610.020 through 28A.610.060.

49. School Involvement Program

Sec. 508. Section 302, chapter 518, Laws of 1987 and RCW 28A.58-.642 are each amended to read as follows:

School districts are encouraged to develop school involvement programs in addition to the policies on parents' access to classrooms and school activities required under RCW (~~(28A.58.053)~~) 28A.605.020. As part of the school involvement program, school districts' policies and plans should be designed to encourage and accommodate the participation in school activities by persons interested and involved with school-age children. The plans should include encouraging classroom observations, parent-teacher consultations, participation in special programs, school volunteer activities, and participation in policy-making and advisory groups at both the district and building levels.

Sec. 509. Section 303, chapter 518, Laws of 1987 and RCW 28A.58-.644 are each amended to read as follows:

School districts are encouraged to provide information to local businesses, organizations, and governmental agencies about their school involvement programs under RCW (~~(28A.58.642)~~) 28A.615.020. School districts are encouraged to seek suggestions from local businesses, organizations, and governmental agencies about implementing their school involvement programs. School districts may enter into agreements with private businesses

and organizations and state and local governmental agencies to facilitate employee participation in the local program.

50. Community Education Program

Sec. 510. Section 1, chapter 120, Laws of 1979 ex. sess. as amended by section 12, chapter 341, Laws of 1985 and by section 1, chapter 344, Laws of 1985 and RCW 28A.58.246 are each reenacted and amended to read as follows:

The purposes of this section and RCW (~~28A.58.247~~) 28A.620.020 are to:

(1) Provide educational, recreational, cultural, and other community services and programs through the establishment of the concept of community education with the community school serving as the center for such activity;

(2) Promote a more efficient and expanded use of existing school buildings and equipment;

(3) Help provide personnel to work with schools, citizens and with other agencies and groups;

(4) Provide a wide range of opportunities for all citizens including programs, if resources are available, to promote parenting skills and promote awareness of the problem of child abuse and methods to avoid child abuse;

(5) As used in this section, "parenting skills" shall include: The importance of consistency in parenting; the value of providing children with a balance of love and firm discipline; the instruction of children in honesty, morality, ethics, and respect for the law; and the necessity of preserving and nurturing the family unit; and

(6) Help develop a sense of community in which the citizens cooperate with the public schools and community agencies and groups to resolve their school and community concerns and to recognize that the schools are available for use by the community day and night, year-round or any time when the programming will not interfere with the preschool through grade twelve program.

51. Meal Program for the Elderly

Sec. 511. Section 1, chapter 107, Laws of 1973 and RCW 28A.58.720 are each amended to read as follows:

The legislature finds that many elderly persons suffer dietary deficiencies and malnutrition due to inadequate financial resources, immobility, lack of interest due to isolation and loneliness, and characteristics of the aging process, such as physiological, social, and psychological changes which result in a way of life too often leading to feelings of rejection, abandonment, and despair. There is a real need as a matter of public policy to provide the elderly citizens with adequate nutritionally sound meals, through which their isolation may be penetrated with the company and the social contacts

of their own. It is the declared purpose of RCW (~~(28A.58.136, 28A.58.720 and 28A.58.722)~~) 28A.235.120, 28A.623.010, and 28A.623.020 to raise the level of dignity of the aged population where their remaining years can be lived in a fulfillment equal to the benefits they have bestowed, the richness they have added, and the great part they have played in the life of our society and nation.

Sec. 512. Section 3, chapter 107, Laws of 1973 and RCW 28A.58.722 are each amended to read as follows:

The board of directors of any school district may establish or allow for the establishment of a nonprofit meal program for feeding elderly persons residing within the area served by such school district using school facilities, and may authorize the extension of any school food services for the purpose of feeding elderly persons, subject to the following conditions and restrictions:

(1) The charge to such persons for each meal shall not exceed the actual cost of such meal to the school.

(2) The program will utilize methods of administration which will assure that the maximum number of eligible individuals may have an opportunity to participate in such a program, and will coordinate, whenever possible, with the local area agency on aging.

(3) Any nonprofit meal program established pursuant to RCW (~~(28A.58.136, 28A.58.720 and 28A.58.722)~~) 28A.235.120, 28A.623.010, and 28A.623.020 may not be operated so as to interfere with the normal educational process within the schools.

(4) No school district funds may be used for the operation of such a meal program.

(5) For purposes of RCW (~~(28A.58.136, 28A.58.720 and 28A.58.722)~~) 28A.235.120, 28A.623.010, and 28A.623.020, "elderly persons" shall mean persons who are at least sixty years of age.

PART VI AWARDS AND SPECIAL PROJECTS

52. Awards

A. Excellence in Education Awards

Sec. 513. Section 1, chapter 147, Laws of 1986 and RCW 28A.03.520 are each amended to read as follows:

RCW (~~(28A.03.523 through 28A.03.538)~~) 28A.625.020 through 28A.625.070 and 28B.15.547 may be known and cited as the Washington award for excellence in education program act.

Sec. 514. Section 2, chapter 147, Laws of 1986 as last amended by section 1, chapter 75, Laws of 1989 and RCW 28A.03.523 are each amended to read as follows:

(1) The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals,

administrators, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The program shall recognize annually:

(a) Five teachers from each congressional district of the state. One individual must be an elementary level teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher. Teachers shall include educational staff associates;

(b) Five principals or administrators from the state;

(c) One school district superintendent from the state; and

(d) One school district board of directors from the state.

Not more than three teachers and three principals or administrators from each congressional district and one superintendent and one school board from the state may be recognized and receive awards in any school year.

(2) The awards for teachers and principals or administrators shall include certificates presented by the governor and the superintendent of public instruction at a public ceremony or ceremonies in appropriate locations.

(3) In addition to certificates under subsection (2) of this section, awards for teachers and principals or administrators shall include:

(a) A waiver of tuition and fees under RCW 28B.15.547 and a stipend not to exceed one thousand dollars to cover costs incurred in taking courses for which the tuition and fees have been waived under this subsection and RCW 28B.15.547. The stipend shall not be considered compensation for the purposes of RCW (~~28A.58.095~~) 28A.400.200; or

(b) Teachers and principals or administrators, at their discretion, may elect to forego the waiver of tuition and fees and the stipend under subsection (3) of this section and apply for a grant not to exceed one thousand dollars, which grant shall be awarded under the provisions of RCW (~~28A.03.535~~) 28A.625.060. Within one year of receiving the award for excellence in education, teachers and principals or administrators shall notify the superintendent of public instruction in writing of their decision to apply for a grant or to receive the waiver of tuition and fees and the stipend under subsection (3) of this section.

Sec. 515. Section 4, chapter 147, Laws of 1986 and RCW 28A.03.529 are each amended to read as follows:

The awards for the superintendent and school board shall include:

(1) Certificates presented by the governor and the superintendent of public instruction at a public ceremony or ceremonies in appropriate locations;

(2) A grant to the superintendent not to exceed one thousand dollars, which grant shall be awarded under the provisions of RCW (~~28A.03.538~~) 28A.625.070; and

(3) A grant to the school board not to exceed two thousand five hundred dollars, which grant shall be awarded under RCW ((~~28A.03.538~~)) 28A.625.070.

Sec. 516. Section 5, chapter 147, Laws of 1986 as amended by section 2, chapter 251, Laws of 1988 and RCW 28A.03.532 are each amended to read as follows:

The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of ((~~this chapter~~)) RCW 28A.625.010 through 28A.625.070. These rules shall include establishing the selection criteria for the Washington award for excellence in education program. The superintendent of public instruction is encouraged to consult with teachers, educational staff associates, principals, administrators, superintendents, and school board members in developing the selection criteria. Notwithstanding the provisions of RCW ((~~28A.03.523(1)-(a))~~) 28A.625.020(1) (a) and (b), such rules may allow for the selection of individuals whose teaching or administrative duties, or both, may encompass multiple grade level or building assignments, or both.

Sec. 517. Section 7, chapter 147, Laws of 1986 as amended by section 3, chapter 251, Laws of 1988 and RCW 28A.03.535 are each amended to read as follows:

Teachers and principals or administrators who have received an award for excellence in education under RCW ((~~28A.03.523~~)) 28A.625.020 shall be eligible to apply for an educational grant in lieu of receiving a waiver of tuition and fees and a stipend as provided under RCW ((~~28A.03.523(3))~~) 28A.625.020(3). The superintendent of public instruction shall award the grant as long as a written grant application is submitted to the superintendent of public instruction within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

Sec. 518. Section 8, chapter 147, Laws of 1986 and RCW 28A.03.538 are each amended to read as follows:

The superintendent and school board who have received an award for excellence in education under RCW ((~~28A.03.529~~)) 28A.625.040 shall be eligible to apply for an educational grant. The superintendent of public instruction shall award the grant as long as a written grant application is submitted to the superintendent of public instruction within one year after the award was received. The grant application shall identify the educational purpose toward which the grant shall be used.

B. Employee Suggestion Program

Sec. 519. Section 2, chapter 143, Laws of 1986 as amended by section 207, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.02.325 are each amended to read as follows:

The board of directors of the school district shall make the final determination as to whether an employee suggestion award will be made and shall determine the nature and extent of the award. The award shall not be a regular or supplemental compensation program for all employees and the suggestion must, in fact, result in actual savings greater than the award amount. Any moneys which may be awarded to an employee as part of an employee suggestion program shall not be considered salary or compensation for the purposes of RCW (~~28A.58.095+~~) 28A.400.200 or chapter 41.40 RCW.

C. Commendable Employee Service and Recognition Award

Sec. 520. Section 2, chapter 399, Laws of 1985 as amended by section 210, chapter 2, Laws of 1987 1st ex. sess. and RCW 28A.58.842 are each amended to read as follows:

The board of directors of any school district may establish a commendable employee service and recognition award program for certificated and classified school employees. The program shall be designed to recognize exemplary service, special achievements, or outstanding contributions by an individual in the performance of his or her duties as an employee of the school district. The board of directors of the school district shall determine the extent and type of any nonmonetary award. The value of any nonmonetary award shall not be deemed salary or compensation for the purposes of RCW (~~28A.58.095+~~) 28A.400.200 or chapter 41.32 RCW.

D. Mathematics, Engineering, and Science Achievement Award

Sec. 521. Section 5, chapter 265, Laws of 1984 and RCW 28A.03.438 are each amended to read as follows:

The coordinator shall establish local program centers throughout the state to implement RCW (~~28A.03.432 through 28A.03.436~~) 28A.625.210 through 28A.625.230. Each center shall be managed by a center director. Additional staff as necessary may be hired.

E. School Improvement and Research Projects

53. Temporary Provisions—Special Projects

A. Educational Outcomes

Sec. 522. Section 13, chapter 233, Laws of 1989 and RCW 28A.120.094 are each amended to read as follows:

(1) The superintendent of public instruction may select up to five school districts to participate in a pilot program for prevention of learning problems and academic delays. The program shall begin with the 1989–90 school year and conclude at the end of the 1990–91 school year.

(2) If at the end of a pilot school year the number of specific learning disabled students served by a participating school district in handicapped

education programs has decreased as a result of the pilot project, the district shall be reimbursed based upon the number of specific learning disabled students served in special education during the school year prior to commencement of the pilot project. These funds will be used to support the pilot project for prevention of learning problems and academic delays: PROVIDED, That school districts participating in the pilot prevention program established under this section who have ongoing pilot projects previously approved by the superintendent of public instruction shall utilize the school year prior to initiation of such pilot project as the base for the reimbursement calculation under this subsection when the number of specific learning disabled students identified has decreased as a result of participation in the pilot program established under this section.

(3) School districts applying to participate in the pilot program established under this section shall submit to the superintendent of public instruction a proposed program budget for the 1989-90 school year and a preliminary budget plan for the 1990-91 school year. These proposed budgets or budget plans shall outline the resources to be used by the district in the identification and early prevention of learning problems. Districts selected to participate shall submit an updated budget proposal to the superintendent of public instruction prior to the 1990-91 school year.

(4) Applications submitted by school districts shall also include:

(a) Assurances that the school district will not deny access to special education programs for handicapped students entitled to services under (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100;

(b) A description of methods to be used by the district to identify students for additional instruction or other services provided under the pilot project;

(c) A description of the types of instructional programs or services to be used in prevention of learning problems;

(d) A plan for evaluating the effectiveness of the district's project at the end of the 1990-91 school year, using student test scores and other indicators of academic progress and, as appropriate, vocational progress, as determined by the district; and

(e) Other information as may be required by the superintendent of public instruction.

(5) For the purposes of this section, "state allocation for handicapped students" includes state handicapped education moneys allocated for students served in special education programs provided under (~~chapter 28A.13~~) RCW 28A.155.010 through 28A.155.100 and basic education allocations generated by such students under the state funding formula adopted pursuant to RCW (~~28A.41.140~~) 28A.150.260.

(6) This section shall expire December 31, 1991.

Sec. 523. Section 14, chapter 233, Laws of 1989 and RCW 28A.120-.096 are each amended to read as follows:

(1) Prior to December 1, 1991, the superintendent of public instruction shall submit a report on the pilot program established under RCW ((~~28A-120-094~~) 28A.630.050) to the legislature and the governor. The report shall include an analysis of the effectiveness of the program and recommendations on whether the program should be continued or expanded to other districts.

(2) This section shall expire December 31, 1991.

Sec. 524. Section 11, chapter 401, Laws of 1987 and RCW 28A.100-.025 are each amended to read as follows:

(1) RCW 28A.100.012 shall expire December 2, 1988.

(2) RCW 28A.100.010, 28A.100.011, and 28A.100.013 through 28A-.100.016 shall expire June 30, 1989.

(3) RCW ((~~28A-100-017 through 28A-100-020~~) 28A.630.010 through 28A.630.040) shall expire January 2, 1994.

B. Schools for the Twenty-first Century

Sec. 525. Section 102, chapter 525, Laws of 1987 and RCW 28A.100-.032 are each amended to read as follows:

The state board of education, with the assistance of the superintendent of public instruction, shall develop a process for schools or school districts to apply to participate in the schools for the twenty-first century pilot program. The board shall review and select projects for grant awards, and monitor and evaluate the schools for the twenty-first century pilot program. The board shall develop criteria to evaluate the need for the waivers of state statutes or administrative rules as identified under RCW ((~~28A-100-048~~) 28A.630.180).

Sec. 526. Section 103, chapter 525, Laws of 1987 and RCW 28A.100-.034 are each amended to read as follows:

(1) The governor shall appoint a task force on schools for the twenty-first century. The task force shall assist and cooperate with the state board of education in the development of the process, and review and selection of projects under RCW ((~~28A-100-032~~) 28A.630.110) and with the state board's duties under RCW ((~~28A-100-052~~) 28A.630.200). The state board is directed, in developing the criteria for waivers, to take into consideration concerns and recommendations of the task force.

(2) The task force of ten people shall be appointed by the governor. Appointed members who are not legislators shall be reimbursed for travel expenses under RCW 43.03.050 and 43.03.060. Appointed members who are members of the legislature shall be reimbursed for travel expenses under RCW 44.04.120. Members of the task force shall serve for a period of six years.

Sec. 527. Section 104, chapter 525, Laws of 1987 and RCW 28A.100-.036 are each amended to read as follows:

The process, review, and selection of projects to be developed in RCW ((28A.100.032)) 28A.630.110 shall be approved by the state board of education. The governor's task force on schools for the twenty-first century shall recommend projects for approval to the state board of education.

Sec. 528. Section 106, chapter 525, Laws of 1987 and RCW 28A.100-.040 are each amended to read as follows:

The board, and the task force, after reviewing project proposals, shall, subject to money being appropriated by the legislature for this purpose, select:

(1) Not more than twenty-one projects during each biennium for the schools for the twenty-first century pilot program;

(2) At least one entire school district if the application is consistent with the requirements under RCW ((28A.100.032 and 28A.100.038)) 28A.630.110 and 28A.630.140;

(3) Projects which reflect a balance among elementary, junior high or middle schools, and high schools. They should also reflect, as much as possible, a balance among geographical areas and school characteristics and sizes.

Sec. 529. Section 107, chapter 525, Laws of 1987 and RCW 28A.100-.042 are each amended to read as follows:

(1) The superintendent of public instruction shall administer RCW ((28A.100.032 and 28A.100.036 through 28A.100.058)) 28A.630.110 and 28A.630.130 through 28A.630.230 and is authorized to award grant funding, subject to money being appropriated by the legislature for this purpose for pilot projects selected by the state board of education under RCW ((28A.100.040)) 28A.630.150.

(2) The superintendent of public instruction shall distribute the initial award grants by July 1, 1988. The initial schools for the twenty-first century pilot projects shall commence with the 1988-89 school year.

(3) The twenty-first century pilot school projects may be conducted for up to six years, if funds are so provided. Subject to state board approval and continued state funding, pilot projects initially funded for two years may be extended for a total period not to exceed six years. Future funding shall be conditioned on a positive evaluation of the project.

Sec. 530. Section 108, chapter 525, Laws of 1987 and RCW 28A.100-.044 are each amended to read as follows:

(1) The superintendent of public instruction may accept, receive, and administer for the purposes of RCW ((28A.100.032 through 28A.100.058)) 28A.630.110 through 28A.630.230 such gifts, grants, and contributions as may be provided from public and private sources for the purposes of RCW ((28A.100.032 through 28A.100.058)) 28A.630.110 through 28A.630.230.

(2) The schools for the twenty-first century pilot program account is hereby established in the custody of the state treasurer. The superintendent

of public instruction shall deposit in the account all moneys received under this section. Moneys in the account may be spent only for the purposes of RCW ((~~28A.100.032 through 28A.100.058~~)) 28A.630.110 through 28A.630.230. Disbursements from this account shall be on the authorization of the superintendent of public instruction or the superintendent's designee. The account is subject to the allotment procedure provided under chapter 43.88 RCW, but no appropriation is required for disbursements.

Sec. 531. Section 112, chapter 525, Laws of 1987 and RCW 28A.100-.054 are each amended to read as follows:

(1) The state board of education may adopt rules under chapter 34.05 RCW as necessary to implement its duties under RCW ((~~28A.100.032 and 28A.100.036 through 28A.100.058~~)) 28A.630.110 and 28A.630.130 through 28A.68.230.

(2) The superintendent of public instruction may adopt rules under chapter 34.05 RCW as necessary to implement the superintendent's duties under RCW ((~~28A.100.032 and 28A.100.036 through 28A.100.058~~)) 28A.630.110 and 28A.630.130 through 28A.630.230.

Sec. 532. Section 115, chapter 525, Laws of 1987 and RCW 28A.100-.068 are each amended to read as follows:

RCW ((~~28A.100.030 through 28A.100.058~~)) 28A.630.100 through 28A.630.230 shall expire June 30, 1994.

C. International Education

Sec. 533. Section 2, chapter 349, Laws of 1987 and RCW 28A.125.020 are each amended to read as follows:

(1) The superintendent of public instruction shall establish an advisory committee to advise the superintendent on international education issues as such issues relate to the development of model curriculum or curriculum guidelines for grades kindergarten through twelve. The advisory committee shall be of such size as determined by the superintendent of public instruction. The superintendent of public instruction is encouraged to include parents; teachers; administrators; multicultural curriculum specialists; representatives of private enterprise; representatives of foreign trade or policy organizations(;;); representatives of local and state ethnic minority groups, associations, or agencies; and representatives of cultural associations.

(2) The superintendent of public instruction shall establish a working committee to develop international education model curriculum or curriculum guidelines. The working committee shall follow the same procedures as those established by the superintendent of public instruction for the implementation of RCW ((~~28A.03.425~~)) 28A.300.110. Upon completion, the model curriculum or curriculum guidelines shall be made available for consideration and use by school districts.

(3) In cooperation with the advisory committee, the superintendent of public instruction shall conduct a study of the feasibility of establishing an international education curriculum resource center and submit a report to the legislature including findings and recommendations by January 1, 1988.

Sec. 534. Section 3, chapter 349, Laws of 1987 and RCW 28A.125.030 are each amended to read as follows:

(1) The superintendent of public instruction may grant funds to selected school districts for the purposes of developing and implementing international education programs. The grants shall be in such amounts as determined by the superintendent of public instruction. The sum of all grants awarded shall not exceed the amount appropriated by the legislature for such purposes.

(2) The grant program shall center on the use of the international education model curriculum or curriculum guidelines developed in RCW (~~((28A.125.020))~~) 28A.630.310. Districts may use the international education model curriculum or curriculum guidelines developed under RCW (~~((28A.125.020))~~) 28A.630.310 as a guideline for creating their own model curriculum for participation in the grant program.

(3) School districts may apply singularly or a group of school districts may apply together to participate in the program.

(4) School districts applying for the international education grant program shall submit a plan which includes:

(a) Participation by the school district in both the model curriculum or curriculum guidelines development activities and the grant program activities provided for by (~~(this chapter))~~) RCW 28A.630.300 through 28A.630.390;

(b) The application or intent to conduct a foreign language program including either Japanese or Mandarin Chinese beginning in the ninth grade;

(c) A staff in-service training program addressing the implementation of international education curriculum;

(d) A goal to enlist participation where possible by private enterprise, cultural and ethnic associations, foreign trade or policy organizations, the local community, exchange students and students who have participated in exchange programs, and parents;

(e) Evaluation of the pilot program.

(5) To the extent possible, selected school districts shall represent the various geographical locations, school or school district sizes, and grade levels in the state.

(6) By January 1, 1988, the superintendent of public instruction shall select five school district grantees for the program. The program shall be implemented beginning with the 1988-89 school year.

(7) The program in international education shall be considered a social studies offering for the purpose of RCW ((~~28A.05.060(1)~~) 28A.230.090(1)).

Sec. 535. Section 4, chapter 349, Laws of 1987 and RCW 28A.125.040 are each amended to read as follows:

The superintendent of public instruction shall adopt rules under chapter 34.05 RCW to carry out the purposes of RCW ((~~28A.125.010 through 28A.125.030~~) 28A.630.300 through 28A.630.320).

D. Development of Educational Paraprofessional Training Program

E. Temporary Provisions

VII

Miscellaneous

54. Offenses Relating to Schools and School Personnel—Penalties

Sec. 536. Section 28A.87.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 314, chapter 258, Laws of 1984 and RCW 28A.87.010 are each amended to read as follows:

Any person who shall insult or abuse a teacher anywhere on the school premises while such teacher is carrying out his or her official duties, shall be guilty of a misdemeanor, the penalty for which shall be a fine of not less than ten dollars nor more than one hundred dollars.

Sec. 537. Section 28A.87.090, chapter 223, Laws of 1969 ex. sess. as last amended by section 143, chapter 275, Laws of 1975 1st ex. sess. and RCW 28A.87.090 are each amended to read as follows:

Except as otherwise provided in chapter 42.23 RCW, it shall be unlawful for any member of the state board of education, the superintendent of public instruction or any employee of ((his)) the superintendent's office, any educational service district superintendent, any school district superintendent or principal, or any director of any school district, to request or receive, directly or indirectly, anything of value for or on account of his or her influence with respect to any act or proceeding of the state board of education, the office of the superintendent of public instruction, any office of educational service district superintendent or any school district, or any of these, when such act or proceeding shall inure to the benefit of those offering or giving the thing of value.

Any willful violation of the provisions of this section shall be a misdemeanor and punished as such.

Sec. 538. Section 28A.87.130, chapter 223, Laws of 1969 ex. sess. as last amended by section 317, chapter 258, Laws of 1984 and RCW 28A.87.130 are each amended to read as follows:

Any school district official or employee who shall refuse or fail to deliver to his or her qualified successor all books, papers, and records pertaining to his or her position, or who shall willfully mutilate or destroy any such

property, or any part thereof, shall be guilty of a misdemeanor, the penalty for which shall be a fine not to exceed one hundred dollars: PROVIDED, That for each day there is a refusal or failure to deliver to a successor books, papers and records, a separate offense shall be deemed to have occurred.

Sec. 539. Section 28A.87.135, chapter 223, Laws of 1969 ex. sess. and RCW 28A.87.135 are each amended to read as follows:

Any school district director who shall aid in or give his or her consent to the employment of a teacher who is not the holder of a valid teacher's certificate issued under authority of chapter ~~((28A.70))~~ 28A.410 RCW authorizing him or her to teach in the school district by which employed shall be personally liable to his or her district for any loss which it may sustain by reason of the employment of such person.

Sec. 540. Section 3, chapter 45, Laws of 1971 as amended by section 1, chapter 2, Laws of 1988 and RCW 28A.87.230 are each amended to read as follows:

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

Sec. 541. Section 4, chapter 45, Laws of 1971 as amended by section 2, chapter 2, Laws of 1988 and RCW 28A.87.231 are each amended to read as follows:

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

Sec. 542. Section 5, chapter 45, Laws of 1971 as amended by section 3, chapter 2, Laws of 1988 and RCW 28A.87.232 are each amended to read as follows:

The crimes defined in RCW ~~((28A.87.230 and 28A.87.231))~~ 28A.635.090 and 28A.635.100 shall not apply to school administrators, teachers, or classified employees who are engaged in the reasonable exercise of their disciplinary authority.

Sec. 543. Section 6, chapter 45, Laws of 1971 and RCW 28A.87.233 are each amended to read as follows:

Any person guilty of violating RCW ~~((28A.87.230 and 28A.87.231))~~ 28A.635.090 and 28A.635.100 shall be deemed guilty of a gross misdemeanor and, upon conviction thereon, shall be fined not more than five hundred dollars, or imprisoned in jail not more than six months or both such fine and imprisonment.

55. Sexual Equality Mandated for Public Schools

56. Appeals from Board Action or Nonaction

Sec. 544. Section 28A.88.010, chapter 223, Laws of 1969 ex. sess. as last amended by section 40, chapter 282, Laws of 1971 ex. sess. and RCW 28A.88.010 are each amended to read as follows:

Any person, or persons, either severally or collectively, aggrieved by any decision or order of any school official or board, within thirty days after the rendition of such decision or order, or of the failure to act upon the same when properly presented, may appeal the same to the superior court of the county in which the school district or part thereof is situated, by filing with the secretary of the school board if the appeal is from board action or failure to act, otherwise with the proper school official, and filing with the clerk of the superior court, a notice of appeal which shall set forth in a clear and concise manner the errors complained of.

Appeals by teachers, principals, supervisors, superintendents, or other certificated employees from the actions of school boards with respect to discharge or other action adversely affecting their contract status, or failure to renew their contracts for the next ensuing term shall be governed by the appeal provisions of chapters ~~((28A.58))~~ 28A.400 and 28A.405 RCW therefor and in all other cases shall be governed by ~~((this))~~ chapter ~~((28A-88))~~ 28A.645 RCW.

57. Agreement on Qualifications of Personnel

Sec. 545. Section 4, chapter 283, Laws of 1969 ex. sess. and RCW 28A.93.010 are each amended to read as follows:

The Interstate Agreement on Qualifications of Educational Personnel is hereby enacted into law and entered into by this state with all other states legally joining therein in the form substantially as follows:

The contracting states solemnly agree that:

Article I

1. The states party to this Agreement, desiring by common action to improve their respective school systems by utilizing the teacher or other professional educational person wherever educated, declare that it is the policy of each of them, on the basis of cooperation with one another, to take advantage of the preparation and experience of such persons wherever gained, thereby serving the best interests of society, of education, and of the teaching profession. It is the purpose of this Agreement to provide for the development and execution of such programs of cooperation as will facilitate the movement of teachers and other professional educational personnel among the states party to it, and to authorize specific interstate educational personnel contracts to achieve that end.

2. The party states find that included in the large movement of population among all sections of the nation are many qualified educational personnel who move for family and other personal reasons but who are

hindered in using their professional skill and experience in their new locations. Variations from state to state in requirements for qualifying educational personnel discourage such personnel from taking the steps necessary to qualify in other states. As a consequence, a significant number of professionally prepared and experienced educators is lost to our school systems. Facilitating the employment of qualified educational personnel, without reference to their states or origin, can increase the available educational resources. Participation in this compact can increase the availability of educational manpower.

Article II

As used in this Agreement and contracts made pursuant to it, unless the context clearly requires otherwise:

1. "Educational personnel" means persons who must meet requirements pursuant to state law as a condition of employment in educational programs.

2. "Designated state official" means the education official of a state selected by that state to negotiate and enter into, on behalf of his or her state, contracts pursuant to this Agreement.

3. "Accept," or any variant thereof, means to recognize and give effect to one or more determinations of another state relating to the qualifications of educational personnel in lieu of making or requiring a like determination that would otherwise be required by or pursuant to the laws of a receiving state.

4. "State" means a state, territory, or possession of the United States; the District of Columbia; or the Commonwealth of Puerto Rico.

5. "Originating State" means a state (and the subdivision thereof, if any) whose determination that certain educational personnel are qualified to be employed for specific duties in schools is acceptable in accordance with the terms of a contract made pursuant to Article III.

6. "Receiving State" means a state (and the subdivisions thereof) which accept educational personnel in accordance with the terms of a contract made pursuant to Article III.

Article III

1. The designated state official of a party state may make one or more contracts on behalf of his or her state with one or more other party states providing for the acceptance of educational personnel. Any such contract for the period of its duration shall be applicable to and binding on the states whose designated state officials enter into it, and the subdivisions of those states, with the same force and effect as if incorporated in this Agreement. A designated state official may enter into a contract pursuant to this Article only with states in which he or she finds that there are programs of education, certification standards or other acceptable qualifications that assure

preparation or qualification of educational personnel on a basis sufficiently comparable, even though not identical to that prevailing in his or her own state.

2. Any such contract shall provide for:

(a) Its duration.

(b) The criteria to be applied by an originating state in qualifying educational personnel for acceptance by a receiving state.

(c) Such waivers, substitutions, and conditional acceptances as shall aid the practical effectuation of the contract without sacrifice of basic educational standards.

(d) Any other necessary matters.

3. No contract made pursuant to this Agreement shall be for a term longer than five years but any such contract may be renewed for like or lesser periods.

4. Any contract dealing with acceptance of educational personnel on the basis of their having completed an educational program shall specify the earliest date or dates on which originating state approval of the program or programs involved can have occurred. No contract made pursuant to this Agreement shall require acceptance by a receiving state of any persons qualified because of successful completion of a program prior to January 1, 1954.

5. The certification or other acceptance of a person who has been accepted pursuant to the terms of a contract shall not be revoked or otherwise impaired because the contract has expired or been terminated. However, any certificate or other qualifying document may be revoked or suspended on any ground which would be sufficient for revocation or suspension of a certificate or other qualifying document initially granted or approved in the receiving state.

6. A contract committee composed of the designated state officials of the contracting states or their representatives shall keep the contract under continuous review, study means of improving its administration, and report no less frequently than once a year to the heads of the appropriate education agencies of the contracting states.

Article IV

1. Nothing in this Agreement shall be construed to repeal or otherwise modify any law or regulation of a party state relating to the approval of programs of educational preparation having effect solely on the qualification of educational personnel within that state.

2. To the extent that contracts made pursuant to this Agreement deal with the educational requirements for the proper qualification of educational personnel, acceptance of a program of educational preparation shall be in accordance with such procedures and requirements as may be provided in the applicable contract.

Article V

The party states agree that:

1. They will, so far as practicable, prefer the making of multilateral contracts pursuant to Article III of this Agreement.

2. They will facilitate and strengthen cooperation in interstate certification and other elements of educational personnel qualification and for this purpose shall cooperate with agencies, organizations, and associations interested in certification and other elements of educational personnel qualification.

Article VI

The designated state officials of any party state may meet from time to time as a group to evaluate progress under the Agreement, and to formulate recommendations for changes.

Article VII

Nothing in this Agreement shall be construed to prevent or inhibit other arrangements or practices of any party state or states to facilitate the interchange of educational personnel.

Article VIII

1. This Agreement shall become effective when enacted into law by two states. Thereafter it shall become effective as to any state upon its enactment of this Agreement.

2. Any party state may withdraw from this Agreement by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of the withdrawal to the governors of all other party states.

3. No withdrawal shall relieve the withdrawing state of any obligation imposed upon it by a contract to which it is a party. The duration of contracts and the methods and conditions of withdrawal therefrom shall be those specified in their terms.

Article IX

This Agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Agreement shall be severable and if any phrase, clause, sentence, or provision of this Agreement is declared to be contrary to the constitution of any state or of the United States, or the application thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this Agreement and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this Agreement shall be held contrary to the constitution of any state participating therein, the Agreement shall remain in full force and effect as to the state affected as to all severable matters.

Sec. 546. Section 5, chapter 283, Laws of 1969 ex. sess. and RCW 28A.93.020 are each amended to read as follows:

The "designated state official" for this state under Article II of RCW ((28A.93.010)) 28A.690.010 shall be the superintendent of public instruction, who shall be the compact administrator and who shall have power to promulgate rules to carry out the terms of this compact. The superintendent of public instruction shall enter into contracts pursuant to Article III of the Agreement only with the approval of the specific text thereof by the state board of education.

Sec. 547. Section 6, chapter 283, Laws of 1969 ex. sess. and RCW 28A.93.030 are each amended to read as follows:

True copies of all contracts made on behalf of this state pursuant to the Agreement as provided in RCW ((28A.93.010)) 28A.690.010 shall be kept on file in the office of the superintendent of public instruction. The superintendent of public instruction shall publish all such contracts in convenient form.

58. Compact for Education

Sec. 548. Section 28A.92.010, chapter 223, Laws of 1969 ex. sess. and RCW 28A.92.010 are each amended to read as follows:

The Compact for Education is hereby entered into with all jurisdictions joining therein, in the form as follows:

COMPACT FOR EDUCATION

ARTICLE I—PURPOSE AND POLICY

A. It is the purpose of this compact to:

1. Establish and maintain close cooperation and understanding among executive, legislative, professional educational and lay leadership on a nationwide basis at the State and local levels.

2. Provide a forum for the discussion, development, crystallization and recommendation of public policy alternatives in the field of education.

3. Provide a clearing house of information on matters relating to educational problems and how they are being met in different places throughout the Nation, so that the executive and legislative branches of State Government and of local communities may have ready access to the experience and record of the entire country, and so that both lay and professional groups in the field of education may have additional avenues for the sharing of experience and the interchange of ideas in the formation of public policy in education.

4. Facilitate the improvement of State and local educational systems so that all of them will be able to meet adequate and desirable goals in a society which requires continuous qualitative and quantitative advance in educational opportunities, methods and facilities.

- B. It is the policy of this compact to encourage and promote local and State initiative in the development, maintenance, improvement and administration of educational systems and institutions in a manner which will accord with the needs and advantages of diversity among localities and States.
- C. The party States recognize that each of them has an interest in the quality and quantity of education furnished in each of the other States, as well as in the excellence of its own educational systems and institutions, because of the highly mobile character of individuals within the Nation, and because the products and services contributing to the health, welfare and economic advancement of each State are supplied in significant part by persons educated in other States.

ARTICLE II—STATE DEFINED

As used in this Compact, "State" means a State, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

ARTICLE III—THE COMMISSION

- A. The Education Commission of the States, hereinafter called "the Commission", is hereby established. The Commission shall consist of seven members representing each party State. One of such members shall be the Governor; two shall be members of the State legislature selected by its respective houses and serving in such manner as the legislature may determine; and four shall be appointed by and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. If the laws of a State prevent legislators from serving on the Commission, six members shall be appointed and serve at the pleasure of the Governor, unless the laws of the State otherwise provide. In addition to any other principles or requirements which a State may establish for the appointment and service of its members of the Commission, the guiding principle for the composition of the membership on the Commission from each party State shall be that the members representing such State, shall, by virtue of their training, experience, knowledge or affiliations be in a position collectively to reflect broadly the interests of the State Government, higher education, the state education system, local education, lay and professional, public and non-public educational leadership. Of those appointees, one shall be the head of a state agency or institution, designated by the Governor, having responsibility for one or more programs of public education. In addition to the members of the Commission representing the party States, there may be not to exceed ten non-voting commissioners

- selected by the steering committee for terms of one year. Such commissioners shall represent leading national organizations of professional educators or persons concerned with educational administration.
- B. The members of the Commission shall be entitled to one vote each on the Commission. No action of the Commission shall be binding unless taken at a meeting at which a majority of the total number of votes on the Commission are cast in favor thereof. Action of the Commission shall be only at a meeting at which a majority of the Commissioners are present. The Commission shall meet at least once a year. In its by-laws, and subject to such directions and limitations as may be contained therein, the Commission may delegate the exercise of any of its powers to the steering committee or the Executive Director, except for the power to approve budgets or requests for appropriations, the power to make policy recommendations pursuant to Article IV and adoption of the annual report pursuant to Article III(J).
- C. The Commission shall have a seal.
- D. The Commission shall elect annually, from among its members, a ((~~chairman~~)) chair, who shall be a Governor, a vice ((~~chairman~~)) chair and a treasurer. The Commission shall provide for the appointment of an executive director. Such executive director shall serve at the pleasure of the Commission, and together with the treasurer and such other personnel as the Commission may deem appropriate shall be bonded in such amount as the Commission shall determine. The executive director shall be secretary.
- E. Irrespective of the civil service, personnel or other merit system laws of any of the party States, the executive director subject to the approval of the steering committee shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Commission, and shall fix the duties and compensation of such personnel. The Commission in its bylaws shall provide for the personnel policies and programs of the Commission.
- F. The Commission may borrow, accept or contract for the services of personnel from any party jurisdiction, the United States, or any subdivision or agency of the aforementioned governments, or from any agency of two or more of the party jurisdictions or their subdivisions.
- G. The Commission may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any State, the United States, or any other governmental agency, or from any person, firm, association, foundation, or corporation, and may receive, utilize and dispose of the same. Any donation or grant accepted by the Commission pursuant to this paragraph or services borrowed pursuant to paragraph (F) of this Article shall be reported in the annual report of the Commission. Such report shall include the nature,

- amount and conditions, if any, of the donation, grant, or services borrowed, and the identity of the donor or lender.
- H. The Commission may establish and maintain such facilities as may be necessary for the transacting of its business. The Commission may acquire, hold, and convey real and personal property and any interest therein.
 - I. The Commission shall adopt bylaws for the conduct of its business and shall have the power to amend and rescind these bylaws. The Commission shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the party States.
 - J. The Commission annually shall make to the Governor and legislature of each party State a report covering the activities of the Commission for the preceding year. The Commission may make such additional reports as it may deem desirable.

ARTICLE IV—POWERS

In addition to authority conferred on the Commission by other provisions of the compact, the Commission shall have authority to:

1. Collect, correlate, analyze and interpret information and data concerning educational needs and resources.
2. Encourage and foster research in all aspects of education, but with special reference to the desirable scope of instruction, organization, administration, and instructional methods and standards employed or suitable for employment in public educational systems.
3. Develop proposals for adequate financing of education as a whole and at each of its many levels.
4. Conduct or participate in research of the types referred to in this Article in any instance where the Commission finds that such research is necessary for the advancement of the purposes and policies of this compact, utilizing fully the resources of national associations, regional compact organizations for higher education, and other agencies and institutions, both public and private.
5. Formulate suggested policies and plans for the improvement of public education as a whole, or for any segment thereof, and make recommendations with respect thereto available to the appropriate governmental units, agencies and public officials.
6. Do such other things as may be necessary or incidental to the administration of any of its authority or functions pursuant to this compact.

ARTICLE V—COOPERATION WITH FEDERAL GOVERNMENT

- A. If the laws of the United States specifically so provide, or if administrative provision is made therefor within the Federal Government, the United States may be represented on the Commission by not to exceed

ten representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to Federal law, and may be drawn from any one or more branches of the Federal Government, but no such representative shall have a vote on the Commission.

- B. The Commission may provide information and make recommendations to any executive or legislative agency or officer of the Federal Government concerning the common educational policies of the States, and may advise with any such agencies or officers concerning any matter of mutual interest.

ARTICLE VI—COMMITTEES

- A. To assist in the expeditious conduct of its business when the full Commission is not meeting, the Commission shall elect a steering committee of thirty-two members which, subject to the provisions of this compact and consistent with the policies of the Commission, shall be constituted and function as provided in the bylaws of the Commission. One-fourth of the voting membership of the steering committee shall consist of Governors, one-fourth shall consist of Legislators, and the remainder shall consist of other members of the Commission. A Federal representative on the Commission may serve with the steering committee, but without vote. The voting members of the steering committee shall serve for terms of two years, except that members elected to the first steering committee of the Commission shall be elected as follows: sixteen for one year and sixteen for two years. The ((~~chairman~~)) chair, vice ((~~chairman~~)) -chair, and treasurer of the Commission shall be members of the steering committee and, anything in this paragraph to the contrary notwithstanding, shall serve during their continuance in these offices. Vacancies in the steering committee shall not affect its authority to act, but the Commission at its next regularly ensuing meeting following the occurrence of any vacancy shall fill it for the unexpired term. No person shall serve more than two terms as a member of the steering committee; provided that service for a partial term of one year or less shall not be counted toward the two term limitation.
- B. The Commission may establish advisory and technical committees composed of State, local, and Federal officials, and private persons to advise it with respect to any one or more of its functions. Any advisory or technical committee may, on request of the States concerned, be established to consider any matter of special concern to two or more of the party States. The Commission may establish such additional committees as its bylaws may provide.
- C. The Commission may establish such additional committees as its bylaws may provided.

ARTICLE VII—FINANCE

- A. The Commission shall advise the Governor or designated officer or officers of each party State of its budget and estimated expenditures for such period as may be required by the laws of that party State. Each of the Commission's budgets of estimated expenditures shall contain specific recommendations of the amount or amounts to be appropriated by each of the party States.
- B. The total amount of appropriation requests under any budget shall be apportioned among the party States. In making such apportionment, the Commission shall devise and employ a formula which takes equitable account of the populations and per capita income levels of the party States.
- C. The Commission shall not pledge the credit of any party States. The Commission may meet any of its obligations in whole or in part with funds available to it pursuant to Article III(G) of this compact, provided that the Commission takes specific action setting aside such funds prior to incurring an obligation to be met in whole or in part in such manner. Except where the Commission makes use of funds available to it pursuant to Article III(G) thereof, the Commission shall not incur any obligation prior to the allotment of funds by the party States adequate to meet the same.
- D. The Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Commission shall be subject to the audit and accounting procedures established by its bylaws. However, all receipts and disbursements of funds handled by the Commission shall be audited yearly by a qualified public accountant, and the report of the audit shall be included in and become part of the annual reports of the Commission.
- E. The accounts of the Commission shall be open at any reasonable time for inspection by duly constituted officers of the party States and by any persons authorized by the Commission.
- F. Nothing contained herein shall be construed to prevent Commission compliance with laws relating to audit or inspection of accounts by or on behalf of any government contributing to the support of the Commission.

ARTICLE VIII—ELIGIBLE PARTIES; ENTRY INTO AND WITHDRAWAL

- A. This compact shall have as eligible parties all States, Territories, and Possessions of the United States, the District of members of the Commission from his or her State, and shall provide to the Commission an equitable share of the financial support of the Commission from any source available to him or her.

- D. Except for a withdrawal effective on December 31, 1967 in accordance with paragraph C of this Article, any party State may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the Governor of the withdrawing State has given notice in writing of the withdrawal to the Governors of all other party States. No withdrawal shall affect any liability already incurred by or chargeable to a party State prior to the time of such withdrawal.

ARTICLE IX—CONSTRUCTION AND SEVERABILITY

This compact shall be liberally construed so as to effectuate the purposes thereof. 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 State or of the United States, or the application thereof to any Government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any Government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any State participating therein, the compact shall remain in full force and effect as to the State affected as to all severable matters.

Sec. 549. Section 28A.92.030, chapter 223, Laws of 1969 ex. sess. as amended by section 7, chapter 87, Laws of 1980 and RCW 28A.92.030 are each amended to read as follows:

The term of the members appointed by the president and the speaker shall be dependent upon continued membership in the house from which appointed and shall expire upon the adjournment sine die of the regular session of the legislature during an odd-numbered year next succeeding the appointment of such member. Vacancies occurring during the term shall be filled for the unexpired term by the appointment of a successor in the same manner as for the vacating member. Members appointed by the governor shall serve at ~~((his))~~ the governor's pleasure.

Sec. 550. Section 28A.92.040, chapter 223, Laws of 1969 ex. sess. and RCW 28A.92.040 are each amended to read as follows:

The governor or a member designated by ~~((him))~~ the governor shall be ~~((chairman))~~ chair of the members of the commission representing this state.

The commissioners shall cooperate with all public and private entities having an interest in educational matters.

The commissioners may employ such professional, technical and clerical assistance as may be required to aid them in carrying out their functions in this chapter prescribed.

Sec. 551. Section 1, chapter 98, Laws of 1983 and RCW 13.04.145 are each amended to read as follows:

A program of education shall be provided for by the several counties and school districts of the state for common school age persons confined in each of the detention facilities staffed and maintained by the several counties of the state under this chapter and chapters 13.16 and 13.20 RCW. The division of duties, authority, and liabilities of the several counties and school districts of the state respecting the educational programs is the same in all respects as set forth in RCW ((~~28A.58.772 through 28A.58.778~~)) 28A.190.030 through 28A.190.060 respecting programs of education for state residential school residents. For the purposes of this section, the terms "department of social and health services," "residential school" or "schools," and "superintendent or chief administrator of a residential school" as used in RCW ((~~28A.58.772 through 28A.58.778~~)) 28A.190.030 through 28A.190.060 shall be respectively construed to mean "the several counties of the state," "detention facilities," and "the administrator of juvenile court detention services." Nothing in this section shall prohibit a school district from utilizing the services of an educational service district subject to RCW ((~~28A.21.086~~)) 28A.310.190.

Sec. 552. Section 1, chapter 2, Laws of 1983 as last amended by section 4, chapter 48, Laws of 1988 and RCW 18.71.030 are each amended to read as follows:

Nothing in this chapter shall be construed to apply to or interfere in any way with the practice of religion or any kind of treatment by prayer; nor shall anything in this chapter be construed to prohibit:

(1) The furnishing of medical assistance in cases of emergency requiring immediate attention;

(2) The domestic administration of family remedies;

(3) The administration of oral medication of any nature to students by public school district employees or private elementary or secondary school employees as provided for in chapter ((~~28A.31~~)) 28A.210 RCW((~~as now or hereafter amended~~));

(4) The practice of dentistry, osteopathy, osteopathy and surgery, nursing, chiropractic, podiatry, 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 by the laws and regulations of the United States;

(6) The practice of medicine by any practitioner licensed by another state or territory in which he resides, provided that such practitioner shall not open an office or appoint a place of meeting patients or receiving calls within this state;

(7) The practice of medicine by a person who is a regular student in a school of medicine approved and accredited by the board: PROVIDED,

HOWEVER, That the performance of such services be only pursuant to a regular course of instruction or assignments from his instructor, or that such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(8) The practice of medicine by a person serving a period of postgraduate medical training in a program of clinical medical training sponsored by a college or university in this state or by a hospital accredited in this state: PROVIDED, That the performance of such services shall be only pursuant to his duties as a trainee;

(9) The practice of medicine by a person who is regularly enrolled in a physician's assistant program approved by the board: PROVIDED, HOWEVER, That the performance of such services be only pursuant to a regular course of instruction in said program: AND PROVIDED FURTHER, That such services are performed only under the supervision and control of a person licensed pursuant to this chapter;

(10) The practice of medicine by a registered physician's assistant which practice is performed under the supervision and control of a physician licensed pursuant to this chapter;

(11) The practice of medicine, in any part of this state which shares a common border with Canada and which is surrounded on three sides by water, by a physician licensed to practice medicine and surgery in Canada or any province or territory thereof;

(12) The administration of nondental anesthesia by a dentist who has completed a residency in anesthesiology at a school of medicine approved by the board of medical examiners: PROVIDED, That a dentist allowed to administer nondental anesthesia shall do so only under authorization of the patient's attending surgeon, obstetrician, or psychiatrist: AND PROVIDED FURTHER, That the medical disciplinary board shall have jurisdiction to discipline a dentist practicing under this exemption and enjoin or suspend such dentist from the practice of nondental anesthesia according to the provisions of chapter 18.72 RCW and chapter 18.130 RCW;

(13) Emergency lifesaving service rendered by a physician's trained mobile intravenous therapy technician, by a physician's trained mobile airway management technician, or by a physician's trained mobile intensive care paramedic, as defined in RCW 18.71.200, if the emergency lifesaving service is rendered under the responsible supervision and control of a licensed physician;

(14) The provision of clean, intermittent bladder catheterization for students by public school district employees or private school employees as provided for in RCW 18.88.295 and ((28A.31.160)) 28A.210.280.

Sec. 553. Section 4, chapter 514, Laws of 1987 and RCW 18.118.010 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of the real estate profession and other business professions which may

seek legislation to substantially increase their scope of practice or the level of regulation of the profession, and for the regulation of business professions not licensed or regulated on July 26, 1987: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 26, 1987, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education under RCW (~~28A.04.120 and 28A.70.005~~) 28A.305.130 and 28A.410.010; (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 26, 1987; and (e) apply to proposals relating solely to continuing education. The legislature believes that all individuals should be permitted to enter into a business profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall be imposed upon any business profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a business profession for the first time should be reviewed according to the following criteria. A business profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature finds that it is necessary to regulate a business profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the business profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

Sec. 554. Section 1, chapter 168, Laws of 1983 and RCW 18.120.010 are each amended to read as follows:

(1) The purpose of this chapter is to establish guidelines for the regulation of health professions not licensed or regulated prior to July 24, 1983, and those licensed or regulated health professions which seek to substantially increase their scope of practice: PROVIDED, That the provisions of this chapter are not intended and shall not be construed to: (a) Apply to any regulatory entity created prior to July 24, 1983, except as provided in this chapter; (b) affect the powers and responsibilities of the superintendent of public instruction or state board of education under RCW ((~~28A.04.120 and 28A.70.005~~) 28A.305.130 and 28A.410.010); (c) apply to or interfere in any way with the practice of religion or to any kind of treatment by prayer; and (d) apply to any remedial or technical amendments to any statutes which licensed or regulated activity before July 24, 1983. The legislature believes that all individuals should be permitted to enter into a health profession unless there is an overwhelming need for the state to protect the interests of the public by restricting entry into the profession. Where such a need is identified, the regulation adopted by the state should be set at the least restrictive level consistent with the public interest to be protected.

(2) It is the intent of this chapter that no regulation shall, after July 24, 1983, be imposed upon any health profession except for the exclusive purpose of protecting the public interest. All bills introduced in the legislature to regulate a health profession for the first time should be reviewed according to the following criteria. A health profession should be regulated by the state only when:

(a) Unregulated practice can clearly harm or endanger the health, safety, or welfare of the public, and the potential for the harm is easily recognizable and not remote or dependent upon tenuous argument;

(b) The public needs and can reasonably be expected to benefit from an assurance of initial and continuing professional ability; and

(c) The public cannot be effectively protected by other means in a more cost-beneficial manner.

(3) After evaluating the criteria in subsection (2) of this section and considering governmental and societal costs and benefits, if the legislature

finds that it is necessary to regulate a health profession not previously regulated by law, the least restrictive alternative method of regulation should be implemented, consistent with the public interest and this section:

(a) Where existing common law and statutory civil actions and criminal prohibitions are not sufficient to eradicate existing harm, the regulation should provide for stricter civil actions and criminal prosecutions;

(b) Where a service is being performed for individuals involving a hazard to the public health, safety, or welfare, the regulation should impose inspection requirements and enable an appropriate state agency to enforce violations by injunctive relief in court, including, but not limited to, regulation of the business activity providing the service rather than the employees of the business;

(c) Where the threat to the public health, safety, or economic well-being is relatively small as a result of the operation of the health profession, the regulation should implement a system of registration;

(d) Where the consumer may have a substantial basis for relying on the services of a practitioner, the regulation should implement a system of certification; or

(e) Where apparent that adequate regulation cannot be achieved by means other than licensing, the regulation should implement a system of licensing.

Sec. 555. Section 8, chapter 96, Laws of 1974 ex. sess. as last amended by section 19, chapter 346, Laws of 1989 and RCW 19.27.080 are each amended to read as follows:

Nothing in this chapter affects the provisions of chapters 19.28, 43.22, 70.77, 70.79, 70.87, 48.48, 18.20, 18.46, 18.51, ~~((28A.02, 28A.04))~~ 28A.305, 70.41, 70.62, 70.75, 70.108, 71.12, 74.15, 70.94, 76.04, ~~((or))~~ 90.76 RCW, or RCW 28A.195.010, or grants rights to duplicate the authorities provided under chapters 70.94 or 76.04 RCW.

Sec. 556. Section 2, chapter 317, Laws of 1987 and RCW 19.142.010 are each amended to read as follows:

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

(1) "Business day" means any day except a Sunday or a legal holiday.

(2) "Buyer" or "member" means a person who purchases health studio services.

(3) "Health studio" includes any person or entity engaged in the sale of instruction, training, assistance or use of facilities which purport to assist patrons to improve their physical condition or appearance through physical exercise, body building, weight loss, figure development, or any other similar activity. For the purposes of this chapter, "health studio" does not include: (a) Public common schools, private schools approved under RCW ~~((28A-02-201))~~ 28A.195.010, and public or private institutions of higher education; (b) persons providing professional services within the scope of a

person's license under Title 18 RCW; (c) bona fide nonprofit organizations which have been granted tax-exempt status by the Internal Revenue Service, the functions of which as health studios are only incidental to their overall functions and purposes; (d) a person or entity which offers physical exercise, body building, figure development or similar activities as incidental features of a plan of instruction or assistance relating to diet or control of eating habits; (e) bona fide nonprofit corporations organized under chapter 24.03 RCW which have members and whose members have meaningful voting rights to elect and remove a board of directors which is responsible for the operation of the health club and corporation; and (f) a preexisting facility primarily offering aerobic classes, where the initiation fee is less than fifty dollars and no memberships are sold which exceed one year in duration. For purposes of this subsection, "preexisting facility" means an existing building used for health studio services covered by the fees collected.

(4) "Health studio services" means instruction, services, privileges, or rights offered for sale by a health studio. "Health studio services" do not include: (a) Instruction or assistance relating to diet or control of eating habits not involving substantial on-site physical exercise, body building, figure development, or any other similar activity; or (b) recreational or social programs which either involve no physical exercise or exercise only incidental to the program.

(5) "Initiation or membership fee" means a fee paid either in a lump sum or installments on a one-time basis when a person first joins a health studio for the privilege of belonging to the health studio.

(6) "Special offer or discount" means any offer of health studio services at a reduced price or without charge to a prospective member.

(7) "Use fees or dues" means fees paid on a regular periodic basis for use of a health studio. This does not preclude prepayment of use fees at the buyer's option.

Sec. 557. Section 4, chapter 176, Laws of 1974 ex. sess. as last amended by section 8, chapter 204, Laws of 1983 and RCW 28B.10.025 are each amended to read as follows:

The Washington state arts commission shall, in consultation with the boards of regents of the University of Washington and Washington State University and with the boards of trustees of the regional universities, The Evergreen State College, and the community college districts, determine the amount to be made available for the purchases of art under RCW 28B.10.027, and payment therefor shall be made in accordance with law. The designation of projects and sites, the selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the board of regents or trustees. However, the costs to carry out the

Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, 43.19.455, or ~~((28A.58.055))~~ 28A.335.210, but shall be contingent upon adequate appropriations being made for that purpose.

Sec. 558. Section 2, chapter 465, Laws of 1987 and RCW 28B.15.543 are each amended to read as follows:

The boards of regents and trustees of the regional universities, state universities, The Evergreen State College, and the community colleges shall waive tuition and service and activities fees for recipients of the Washington scholars award under RCW ~~((28A.58.820 through 28A.58.830))~~ 28A.600.100 through 28A.600.150 for undergraduate studies. To qualify for the waiver, recipients shall enter the college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for waivers for a maximum of twelve quarters or eight semesters and may transfer among state institutions of higher education during that period and continue to have the tuition and services and activities fees waived by the state institution of higher education that the student attends. Should the student's cumulative grade point average fall below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

Sec. 559. Section 1, chapter 13, Laws of 1981 2nd ex. sess. as amended by section 81, chapter 175, Laws of 1989 and RCW 28B.50.873 are each amended to read as follows:

The state board for community college education may declare a financial emergency under the following conditions: (1) Reduction of allotments by the governor pursuant to RCW 43.88.110(2), or (2) reduction by the legislature from one biennium to the next or within a biennium of appropriated funds based on constant dollars using the implicit price deflator. When a district board of trustees determines that a reduction in force of tenured or probationary faculty members may be necessary due to financial emergency as declared by the state board, written notice of the reduction in force and separation from employment shall be given the faculty members so affected by the president or district president as the case may be. Said notice shall clearly indicate that separation is not due to the job performance of the employee and hence is without prejudice to such employee and need only state in addition the basis for the reduction in force as one or more of the reasons enumerated in subsections (1) and (2) of this section.

Said tenured or probationary faculty members will have a right to request a formal hearing when being dismissed pursuant to subsections (1) and (2) of this section. The only issue to be determined shall be whether under the applicable policies, rules or collective bargaining agreement the

particular faculty member or members advised of severance are the proper ones to be terminated. Said hearing shall be initiated by filing a written request therefor with the president or district president, as the case may be, within ten days after issuance of such notice. At such formal hearing the tenure review committee provided for in RCW 28B.50.863 may observe the formal hearing procedure and after the conclusion of such hearing offer its recommended decision for consideration by the hearing officer. Failure to timely request such a hearing shall cause separation from service of such faculty members so notified on the effective date as stated in the notice, regardless of the duration of any individual employment contract.

The hearing required by this section shall be an adjudicative proceeding pursuant to chapter 34.05 RCW, the Administrative Procedure Act, conducted by a hearing officer appointed by the board of trustees and shall be concluded by the hearing officer within sixty days after written notice of the reduction in force has been issued. Ten days written notice of the formal hearing will be given to faculty members who have requested such a hearing by the president or district president as the case may be. The hearing officer within ten days after conclusion of such formal hearing shall prepare findings, conclusions of law and a recommended decision which shall be forwarded to the board of trustees for its final action thereon. Any such determination by the hearing officer under this section shall not be subject to further tenure review committee action as otherwise provided in this chapter.

Notwithstanding any other provision of this section, at the time of a faculty member or members request for formal hearing said faculty member or members may ask for participation in the choosing of the hearing officer in the manner provided in RCW (~~(28A.58.455(4))~~) 28A.405.310(4), said employee therein being a faculty member for the purposes hereof and said board of directors therein being the board of trustees for the purposes hereof: PROVIDED, That where there is more than one faculty member affected by the board of trustees' reduction in force such faculty members requesting hearing must act collectively in making such request: PROVIDED FURTHER, That costs incurred for the services and expenses of such hearing officer shall be shared equally by the community college and the faculty member or faculty members requesting hearing.

When more than one faculty member is notified of termination because of a reduction in force as provided in this section, hearings for all such faculty members requesting formal hearing shall be consolidated and only one such hearing for the affected faculty members shall be held, and such consolidated hearing shall be concluded within the time frame set forth herein.

Separation from service without prejudice after formal hearing under the provisions of this section shall become effective upon final action by the board of trustees.

It is the intent of the legislature by enactment of this section and in accordance with RCW 28B.52.035, to modify any collective bargaining agreements in effect, or any conflicting board policies or rules, so that any reductions in force which take place after December 21, 1981, whether in progress or to be initiated, will comply solely with the provisions of this section: PROVIDED, That any applicable policies, rules, or provisions contained in a collective bargaining agreement related to lay-off units, seniority and re-employment rights shall not be affected by the provisions of this paragraph.

Nothing in this section shall be construed to affect the right of the board of trustees or its designated appointing authority not to renew a probationary faculty appointment pursuant to RCW 28B.50.857.

Sec. 560. Section 1, chapter 210, Laws of 1988 and RCW 28B.80.245 are each amended to read as follows:

(1) Recipients of the Washington scholars award under RCW (~~28A.58.820 through 28A.58.830~~) 28A.600.100 through 28A.600.150 choosing to attend an independent college or university in this state, as defined in subsection (4) of this section, may receive grants under this section if moneys are available. The higher education coordinating board shall distribute grants to eligible students under this section from moneys appropriated for this purpose. The individual grants shall not exceed, on a yearly basis, the yearly, full-time, resident, undergraduate tuition and service and activities fees in effect at the state-funded research universities. Grants shall be contingent upon the private institution matching on at least a dollar-for-dollar basis, either with actual money or by a waiver of fees, the amount of the grant received by the student from the state. The higher education coordinating board shall establish procedures, by rule, to disburse the awards as direct grants to the students.

(2) To qualify for the grant, recipients shall enter the independent college or university within three years of high school graduation and maintain a minimum grade point average at the college or university equivalent to 3.30. Students shall be eligible for grants for a maximum of twelve quarters or eight semesters of undergraduate study and may transfer among independent colleges and universities during that period and continue to receive the grant. If the student's cumulative grade point average falls below 3.30 during the first three quarters or two semesters, that student may petition the higher education coordinating board which shall have the authority to establish a probationary period until such time as the student's grade point average meets required standards.

(3) No grant shall be awarded to any student who is pursuing a degree in theology.

(4) As used in this section, "independent college or university" means a private, nonprofit educational institution, the main campus of which is permanently situated in the state, open to residents of the state, providing programs of education beyond the high school level leading at least to the baccalaureate degree, and accredited by the northwest association of schools and colleges as of June 9, 1988, and other institutions as may be developed that are approved by the higher education coordinating board as meeting equivalent standards as those institutions accredited under this section.

Sec. 561. Section 7, chapter 370, Laws of 1985 as amended by section 20, chapter 136, Laws of 1986 and RCW 28B.80.360 are each amended to read as follows:

The board shall perform the following administrative responsibilities:

(1) Administer the programs set forth in the following statutes: (~~Chapter 28A.58~~) RCW 28A.600.100 through 28A.600.150 (Washington scholars); chapter 28B.04 RCW (displaced homemakers); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.10.210 through 28B.10.220 (blind students subsidy); RCW 28B.10.800 through 28B.10.824 (student financial aid program); chapter 28B.12 RCW (work study); RCW 28B.15.067 through 28B.15.076 (educational costs for establishing tuition and fees); RCW 28B.15.543 (tuition waivers for Washington scholars); RCW 28B.15.760 through 28B.15.766 (math and science loans); RCW 28B.80.150 through 28B.80.170 (student exchange compact); RCW 28B.80.240 (student aid programs); and RCW 28B.80.210 (federal programs).

(2) Study the delegation of the administration of the following: RCW 28B.65.040 through 28B.65.060 (high-technology board); chapter 28B.85 RCW (degree-granting institutions); RCW 28B.80.150 through 28B.80.170 (student exchange compact programs); RCW 28B.80.200 (state commission for federal law purposes); RCW 28B.80.210 (enumerated federal programs); RCW 28B.80.230 (receipt of federal funds); RCW 28B.80.240 (student financial aid programs); RCW (~~28A.58.824 through 28A.58.830~~) 28A.600.120 through 28A.600.150 (Washington scholars); RCW 28B.15.543 (Washington scholars); RCW 28B.04.020 through 28B.04.110 (displaced homemakers); RCW 28B.10.215 and 28B.10.220 (blind students); RCW 28B.10.790, 28B.10.792, and 28B.10.802 through 28B.10.844 (student financial aid); RCW 28B.12.040 through 28B.12.070 (student work study); RCW 28B.15.100 (reciprocity agreement); RCW 28B.15.730 through 28B.15.736 (Oregon reciprocity); RCW 28B.15.750 through 28B.15.754 (Idaho reciprocity); RCW 28B.15.756 and 28B.15.758 (British Columbia reciprocity); and RCW 28B.15.760 through 28B.15.764 (math/science loans). The board shall report the results of its study and recommendations to the legislature.

Sec. 562. Section 29.13.020, chapter 9, Laws of 1965 as last amended by section 10, chapter 4, Laws of 1989 and RCW 29.13.020 are each amended to read as follows:

(1) All city, town, and district general elections shall be held throughout the state of Washington on the first Tuesday following the first Monday in November in the odd-numbered years.

This section shall not apply to:

(a) Elections for the recall of any elective public officer;

(b) Public utility districts or district elections at which the ownership of property within those districts is a prerequisite to voting, all of which elections shall be held at the times prescribed in the laws specifically applicable thereto;

(c) Consolidation proposals as provided for in RCW ((28A.57.180)) 28A.315.280 and nonhigh capital fund aid proposals as provided for in chapter ((28A.56)) 28A.540 RCW.

(2) The county auditor, as ex officio supervisor of elections, upon request in the form of a resolution of the governing body of a city, town, or district, presented to him at least forty-five days prior to the proposed election date, may, if he deems an emergency to exist, call a special election in such city, town, or district, and for the purpose of such special election he may combine, unite, or divide precincts. A special election called by such governing body shall be held on one of the following dates as decided by the governing body:

- (a) The first Tuesday after the first Monday in February;
- (b) The second Tuesday in March;
- (c) The first Tuesday after the first Monday in April;
- (d) The fourth Tuesday in May;
- (e) The day of the primary election as specified by RCW 29.13.070; or
- (f) The first Tuesday after the first Monday in November.

In addition to (a) through (f) above, a special election to validate an excess levy or bond issue may be called at any time to meet the needs resulting from failure of a school or junior taxing district to pass a special levy or bond issue for the first time or from fire, flood, earthquake, or other act of God, except that no special election may be held between the first day for candidates to file for public office and the last day to certify the returns of the general election other than as provided in (e) and (f) of this subsection. Such special election shall be conducted and notice thereof given in the manner provided by law.

This section shall supersede the provisions of any and all other statutes, whether general or special in nature, having different dates for such city, town, and district elections, the purpose of this section being to establish mandatory dates for holding elections.

Sec. 563. Section 7, chapter 10, Laws of 1989 and RCW 29.13.060 are each amended to read as follows:

In class AA and class A counties, first class school districts containing a city of the first class shall hold their elections biennially as provided in RCW 29.13.020.

Except as provided in RCW (~~28A.57.313~~) 28A.315.460, the directors to be elected shall be elected for terms of six years and until their successors are elected and qualified and assume office in accordance with RCW 29.04.170.

Sec. 564. Section 14, chapter 31, Laws of 1984 and RCW 31.12.125 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 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, 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;

(10) Accept deposits of deferred compensation of its members under the terms and conditions of RCW (~~28A.58.740~~) 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. 565. Section 35.13.125, chapter 7, Laws of 1965 as last amended by section 3, chapter 351, Laws of 1989 and RCW 35.13.125 are each amended to read as follows:

Proceedings for the annexation of territory pursuant to RCW 35.13.130, 35.13.140, 35.13.150, 35.13.160 and 35.13.170 shall be commenced as provided in this section. Prior to the circulation of a petition for annexation, the initiating party or parties who, except as provided in RCW ((28A.58.044)) 28A.335.110, shall be either not less than ten percent of the residents of the area to be annexed or the owners of not less than ten percent in value, according to the assessed valuation for general taxation of the property for which annexation is petitioned, shall notify the legislative body of the city or town in writing of their intention to commence annexation proceedings. The legislative body shall set a date, not later than sixty days after the filing of the request, for a meeting with the initiating parties to determine whether the city or town will accept, reject, or geographically modify the proposed annexation, whether it shall require the simultaneous adoption of the comprehensive plan if such plan has been prepared and filed for the area to be annexed as provided for in RCW 35.13.177 and 35.13.178, and whether it shall require the assumption of all or of any portion of existing city or town indebtedness by the area to be annexed. If the legislative body requires the assumption of all or of any portion of indebtedness and/or the adoption of a comprehensive plan, it shall record this action in its minutes and the petition for annexation shall be so drawn as to clearly indicate this fact. There shall be no appeal from the decision of the legislative body.

Sec. 566. Section 35.13.130, chapter 7, Laws of 1965 as last amended by section 1, chapter 66, Laws of 1981 and RCW 35.13.130 are each amended to read as follows:

A petition for annexation of an area contiguous to a city or town may be made in writing addressed to and filed with the legislative body of the municipality to which annexation is desired. Except where all the property sought to be annexed is property of a school district, and the school directors thereof file the petition for annexation as in RCW ((28A.58.044)) 28A.335.110 authorized, the petition must be signed by the owners of not less than seventy-five percent in value according to the assessed valuation for general taxation of the property for which annexation is petitioned: PROVIDED, That in cities and towns with populations greater than one hundred sixty thousand located east of the Cascade mountains, the owner of

tax exempt property may sign an annexation petition and have the tax exempt property annexed into the city or town, but the value of the tax exempt property shall not be used in calculating the sufficiency of the required property owner signatures unless only tax exempt property is proposed to be annexed into the city or town. The petition shall set forth a description of the property according to government legal subdivisions or legal plats which is in compliance with RCW 35.02.170, and shall be accompanied by a plat which outlines the boundaries of the property sought to be annexed. If the legislative body has required the assumption of all or of any portion of city or town indebtedness by the area annexed, and/or the adoption of a comprehensive plan for the area to be annexed, these facts, together with a quotation of the minute entry of such requirement or requirements shall be set forth in the petition.

Sec. 567. Section 1, chapter 134, Laws of 1979 ex. sess. and RCW 39.33.070 are each amended to read as follows:

Any school district or educational service district, after complying with the requirements of RCW ((~~28A.02.110~~) 28A.335.180), and any library, as defined in RCW 27.12.010, may dispose of surplus or obsolete books, periodicals, newspapers, and other reading materials as follows:

(1) If the reading materials are estimated to have value as reading materials in excess of one thousand dollars, they shall be sold at public auction to the person submitting the highest reasonable bid following publication of notice of the auction in a newspaper with a general circulation in the library or school district.

(2) If no reasonable bids are submitted under subsection (1) of this section or if the reading materials are estimated to have value as reading materials of one thousand dollars or less, the library or school district may directly negotiate the sale of the reading materials to a public or private entity.

(3) If the reading materials are determined to have no value as reading materials or if no purchaser is found under subsection (2) of this section the reading materials may be recycled or destroyed.

These methods for disposing of surplus or obsolete reading materials shall be in addition to any other method available to libraries and school districts for disposal of the property.

Sec. 568. Section 4, chapter 239, Laws of 1967 as last amended by section 2, chapter 308, Laws of 1981 and RCW 39.34.030 are each amended to read as follows:

(1) Any power or powers, privileges or authority exercised or capable of exercise by a public agency of this state may be exercised and enjoyed jointly with any other public agency of this state having the power or powers, privilege or authority, and jointly with any public agency of any other state or of the United States to the extent that laws of such other state or of the United States permit such joint exercise or enjoyment. Any agency of

the state government when acting jointly with any public agency may exercise and enjoy all of the powers, privileges and authority conferred by this chapter upon a public agency.

(2) Any two or more public agencies may enter into agreements with one another for joint or cooperative action pursuant to the provisions of this chapter: PROVIDED, That any such joint or cooperative action by public agencies which are educational service districts and/or school districts shall comply with the provisions of RCW (~~28A.58.107, as now or hereafter amended~~) 28A.320.080. Appropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force.

(3) Any such agreement shall specify the following:

(a) Its duration;

(b) The precise organization, composition and nature of any separate legal or administrative entity created thereby together with the powers delegated thereto, provided such entity may be legally created. Such entity may include a nonprofit corporation whose membership is limited solely to the participating public agencies and the funds of any such corporation shall be subject to audit in the manner provided by law for the auditing of public funds;

(c) Its purpose or purposes;

(d) The manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor;

(e) The permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination;

(f) Any other necessary and proper matters.

(4) In the event that the agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to items (a), (c), (d), (e) and (f) enumerated in subdivision (3) hereof, contain the following:

(a) Provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, public agencies party to the agreement shall be represented;

(b) The manner of acquiring, holding and disposing of real and personal property used in the joint or cooperative undertaking. Any joint board is authorized to establish a special fund with a state, county, city, or district treasurer servicing an involved public agency designated "Operating fund of joint board".

(5) No agreement made pursuant to this chapter shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made

hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

(6) Financing of joint projects by agreement shall be as provided by law.

Sec. 569. Section 2, chapter 93, Laws of 1989 and RCW 41.04.655 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout RCW 41.04.650 through 41.04.670, (~~28A.58-099+~~) 28A.400.380, and section 7, chapter 93, Laws of 1989.

(1) "Employee" means any employee of the state, including employees of school districts and educational service districts, who are entitled to accrue sick leave or annual leave and for whom accurate leave records are maintained.

(2) "State agency" or "agency" means departments, offices, agencies, or institutions of state government, the legislature, institutions of higher education, school districts, and educational service districts.

(3) "Program" means the leave sharing program established in RCW 41.04.660.

Sec. 570. Section 2, chapter 265, Laws of 1987 and RCW 41.32.011 are each amended to read as follows:

(1) Subject to the limitations contained in this section, for the purposes of RCW 41.32.010(11)(a)(ii), earnable compensation means the compensation the member would have received in the same position if employed on a regular full-time basis for the same contract period.

(2) In order to ensure that the benefit provided by this section is not used to unfairly inflate a member's retirement allowance, the department shall adopt rules having the force of law to govern the application of this section.

(3)(a) In adopting rules which apply to a member employed by a school district, the department may consult the district's salary schedule and related workload provisions, if any, adopted pursuant to RCW (~~28A.67-066~~) 28A.405.200. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's schedule, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's schedule.

(b) In adopting rules which apply to a member employed by a community college district, the department may consult the district's salary schedule and workload provisions contained in an agreement negotiated pursuant to chapter 28B.52 RCW, or similar documents. The rules may require that, in order to be eligible for this benefit, a member's position must either be included on the district's agreement, or the position must have duties, responsibilities, and method of pay which are similar to those found on the district's agreement. The maximum full-time work week used in calculating the benefit for community college employees paid on an hourly

rate shall in no case exceed fifteen credit hours, twenty classroom contact hours, or thirty-five assigned hours.

(4) If the legislature amends or revokes the benefit provided by this section, no affected employee who thereafter retires is entitled to receive the benefit as a matter of contractual right.

Sec. 571. Section 3, chapter 16, Laws of 1981 as amended by section 206, chapter 2, Laws of 1987 1st ex. sess. and RCW 41.59.935 are each amended to read as follows:

Nothing in this chapter shall be construed to grant employers or employees the right to reach agreements regarding salary or compensation increases in excess of those authorized in accordance with RCW (~~28A.41.112 and 28A.58.0951~~) 28A.150.410 and 28A.400.200.

Sec. 572. Section 26, chapter 288, Laws of 1975 1st ex. sess. and RCW 41.59.940 are each amended to read as follows:

Except for RCW 41.59.040, 41.59.050, 41.59.110 and 41.59.160 which shall take effect ninety days following enactment hereof, this chapter and RCW (~~28A.01.130 and 28A.67.065~~) 28A.150.060 and 28A.405.100 as amended by chapter 288, Laws of 1975 1st ex. sess. shall take effect on January 1, 1976. Where the term "effective date of this chapter" is used elsewhere in this chapter it shall mean January 1, 1976.

Sec. 573. Section 1, chapter 44, Laws of 1983 1st ex. sess. as amended by section 1, chapter 263, Laws of 1989 and RCW 42.23.030 are each amended to read as follows:

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

(1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

(2) The designation of public depositories for municipal funds;

(3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;

(4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;

(5) The employment of any person by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class

school district, for unskilled day labor at wages not exceeding one hundred dollars in any calendar month;

(6) The letting of any other contract (except a sale or lease as seller or lessor) by a municipality, other than a county of the first class or higher, a city of the first or second class, an irrigation district encompassing in excess of fifty thousand acres, or a first class school district: PROVIDED, That the total volume of business represented by such contract or contracts in which a particular officer is interested, singly or in the aggregate, as measured by the dollar amount of the municipality's liability thereunder, shall not exceed seven hundred fifty dollars in any calendar month: PROVIDED FURTHER, That in the case of a particular officer of a city or town of the third, or fourth class, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW 36.32.240, the total volume of such contract or contracts authorized in this subsection may exceed seven hundred fifty dollars in any calendar month but shall not exceed nine thousand dollars in any calendar year: PROVIDED FURTHER, That there shall be public disclosure by having an available list of such purchases or contracts, and if the supplier or contractor is an official of the municipality, he or she shall not vote on the authorization;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers, who shall be appointed from members of the American institute of real estate appraisers by the presiding judge of the superior court in the county where the property is situated, shall find and the court finds that all terms and conditions of such lease are fair to the port district and are in the public interest;

(8) The letting of any contract for the driving of a school bus in a second class school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of any contract to the spouse of an officer of a second class school district in which less than two hundred full time equivalent students are enrolled at the start of the school year as defined in RCW ((28A.01.020)) 28A.150.040, when such contract is solely for employment as a certificated or classified employee of the school district, or the letting of any contract to the spouse of an officer of a second class district in which less than five hundred full time equivalent students are enrolled at the start of the school year as defined in RCW ((28A.01.020)) 28A.150.040, when such contract is solely for employment as a substitute teacher for the school district: PROVIDED, That the terms of such contract shall be commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the

written policy under RCW (~~(28A.60.360)~~) 28A.330.240, that there is a shortage of substitute teachers in the school district.

Sec. 574. Section 3, chapter 204, Laws of 1983 and RCW 43.17.205 are each amended to read as follows:

The funds allocated under RCW 43.17.200, (~~(28A.58.055)~~) 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission when the particular law providing for the appropriation becomes effective. For appropriations which are dependent upon the sale of bonds, the amount or proportionate amount of the moneys under RCW 43.17.200, (~~(28A.58.055)~~) 28A.335.210, and 28B.10.025 shall be subject to interagency reimbursement for expenditure by the visual arts program of the Washington state arts commission thirty days after the sale of a bond or bonds.

Sec. 575. Section 5, chapter 204, Laws of 1983 and RCW 43.17.210 are each amended to read as follows:

The Washington state arts commission shall determine the amount to be made available for the purchase of art in consultation with the agency, except where another person or agency is specified under RCW 43.19.455, (~~(28A.58.055)~~) 28A.335.210, or 28B.10.025, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the directors of the state agencies. However, the costs to carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to in RCW 43.17.200, 43.19.455, (~~(28A.58.055)~~) 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose.

Sec. 576. Section 3, chapter 176, Laws of 1974 ex. sess. as amended by section 6, chapter 204, Laws of 1983 and RCW 43.19.455 are each amended to read as follows:

Except as provided under RCW 43.17.210, the Washington state arts commission shall determine the amount to be made available for the purchase of art under RCW 43.17.200 in consultation with the director of general administration, and payments therefor shall be made in accordance with law. The designation of projects and sites, selection, contracting, purchase, commissioning, reviewing of design, execution and placement, acceptance, maintenance, and sale, exchange, or disposition of works of art shall be the responsibility of the Washington state arts commission in consultation with the director of general administration. However, the costs to

carry out the Washington state arts commission's responsibility for maintenance shall not be funded from the moneys referred to under this section, RCW 43.17.200, (~~28A.58.055~~) 28A.335.210, or 28B.10.025, but shall be contingent upon adequate appropriations being made for that purpose.

Sec. 577. Section 6, chapter 320, Laws of 1989 and RCW 43.43.845 are each amended to read as follows:

(1) Upon a guilty plea or conviction of a person of any felony crime involving the physical neglect of a child under chapter 9A.42 RCW, the physical injury or death of a child under chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under chapter 46.61 RCW), sexual exploitation of a child under chapter 9.68A RCW, sexual offenses under chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under chapter 9A.88 RCW, or the sale or purchase of a minor child under RCW 9A.64.030, the prosecuting attorney shall determine whether the person holds a certificate or permit issued under chapters ~~((28A.70 or 28A.67))~~ 28A.405 and 28A.410 RCW or is employed by a school district. If the person is employed by a school district or holds a certificate or permit issued under chapters ~~((28A.70 or 28A.67))~~ 28A.405 and 28A.410 RCW, the prosecuting attorney shall notify the state patrol of such guilty pleas or convictions.

(2) When the state patrol receives information that a person who has a certificate or permit issued under chapters ~~((28A.70 or 28A.67))~~ 28A.405 and 28A.410 RCW or is employed by a school district has pled guilty to or been convicted of one of the felony crimes under subsection (1) of this section, the state patrol shall immediately transmit that information to the superintendent of public instruction. It shall be the duty of the superintendent of public instruction to provide this information to the state board of education and the school district employing the individual who pled guilty or was convicted of the crimes identified in subsection (1) of this section.

Sec. 578. Section 2, chapter 204, Laws of 1983 and RCW 43.46.095 are each amended to read as follows:

All works of art purchased and commissioned under the visual arts program shall become a part of a state art collection developed, administered, and operated by the Washington state arts commission. All works of art previously purchased or commissioned under RCW 43.46.090, 43.17.200, 43.19.455, 28B.10.025, or (~~28A.58.055~~) 28A.335.210 shall be considered a part of the state art collection to be administered by the Washington state arts commission.

Sec. 579. Section 4, chapter 489, Laws of 1987 and RCW 43.63A.066 are each amended to read as follows:

The department of community development shall have primary responsibility for providing child abuse and neglect prevention training to preschool age children participating in the federal head start program or the

early childhood education and assistance program established under ~~((chapter 28A.34A))~~ RCW 28A.215.010 through 28A.215.200 and 28A.215.900 through 28A.215.908.

Sec. 580. Section 801, chapter 9, Laws of 1989 1st ex. sess. and RCW 43.70.900 are each amended to read as follows:

All references to the secretary or department of social and health services in the Revised Code of Washington shall be construed to mean the secretary or department of health when referring to the functions transferred in RCW 43.70.080, 15.36.005, 18.104.005, 19.32.005, ~~((28A.31-005))~~ 28A.210.005, 43.83B.005, 43.99D.005, 43.99E.005, 70.05.005, 70.08.005, 70.12.005, 70.22.005, 70.24.005, 70.40.005, 70.41.005, and 70.54.005.

Sec. 581. Section 6, chapter 6, Laws of 1980 and RCW 43.79.425 are each amended to read as follows:

On and after June 12, 1980, the current state school fund is abolished and the state treasurer shall transfer any moneys in such account on such June 12, 1980, or any moneys thereafter received for such account, to the common school construction fund as referred to in RCW ~~((28A.40.100))~~ 28A.515.320.

Sec. 582. Section 2, chapter 14, Laws of 1989 1st ex. sess. and RCW 43.99H.020 are each amended to read as follows:

Bonds issued under RCW 43.99H.010 are subject to the following conditions and limitations:

General obligation bonds of the state of Washington in the sum of one billion two hundred twenty-seven million dollars, or so much thereof as may be required, shall be issued for the purposes described and authorized by the legislature in the capital and operating appropriations acts for the 1989-91 fiscal biennium and subsequent fiscal biennia, and to provide for the administrative cost of such projects, including costs of bond issuance and retirement, salaries and related costs of officials and employees of the state, costs of insurance or credit enhancement agreements, and other expenses incidental to the administration of capital projects, and to provide for reimbursement of bond-funded accounts from the 1987-89 fiscal biennium. Subject to such changes as may be required in the appropriations acts, the proceeds from the sale of the bonds issued for the purposes of this subsection shall be deposited in the state building construction account created by RCW 43.83.020 and transferred as follows:

(1) Thirty million dollars to the state and local improvements revolving account—waste disposal facilities, created by RCW 43.83A.030, to be used for the purposes described in RCW 43.83A.020;

(2) Five million three hundred thousand dollars to the salmon enhancement construction account created by RCW 75.48.030;

(3) One hundred twenty million dollars to the state and local improvements revolving account—waste disposal facilities, 1980 created by RCW 43.99F.030, to be used for the purposes described in RCW 43.99F.020;

(4) Forty million dollars to the common school construction ((~~account~~)) fund as referenced in RCW ((~~28A.40.100~~)) 28A.515.320;

(5) Three million two hundred thousand dollars to the state higher education construction account created by RCW 28B.10.851;

(6) Six hundred seventy-four million dollars to the state building construction account created by RCW 43.83.020;

(7) Nine hundred fifty thousand dollars to the higher education reimbursable short-term bond account created by RCW 43.99G.020(6);

(8) Three million two hundred thirty thousand dollars to the outdoor recreation account created by RCW 43.99.060;

(9) Sixty million dollars to the state and local improvements revolving account—water supply facilities, created by RCW 43.83B.030 to be used for the purposes described in chapter 43.99E RCW;

(10) Seven million dollars to the state social and health services construction account created by RCW 43.83H.030;

(11) Two hundred fifty thousand dollars to the fisheries capital projects account created by RCW 43.83I.166;

(12) Four million nine hundred thousand dollars to the state facilities renewal account created by RCW 43.99G.020(5);

(13) Two million three hundred thousand dollars to the essential rail assistance account created by RCW 47.76.030;

(14) One million one hundred thousand dollars to the essential rail bank account hereby created in the state treasury;

(15) Seventy-three million dollars to the east capitol campus construction account hereby created in the state treasury;

(16) Eight million dollars to the higher education construction account created in RCW 28B.14D.040;

(17) Sixty-three million two hundred thousand dollars to the labor and industries construction account hereby created in the state treasury; and

(18) Seventy-five million dollars to the University of Washington building account created by RCW 43.79.080.

These proceeds shall be used exclusively for the purposes specified in this subsection, and for the payment of expenses incurred in the issuance and sale of the bonds issued for the purposes of this section, and shall be administered by the office of financial management, subject to legislative appropriation.

Bonds authorized for the purposes of subsection (17) of this section shall be issued only after the director of the department of labor and industries has certified, based on reasonable estimates, that sufficient revenues will be available from the accident fund created in RCW 51.44.010 and the

medical aid fund created in RCW 51.44.020 to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Bonds authorized for the purposes of subsection (18) of this section shall be issued only after the board of regents of the University of Washington has certified, based on reasonable estimates, that sufficient revenues will be available from nonappropriated local funds to meet the requirements of RCW 43.99H.060(4) during the life of the bonds.

Sec. 583. Section 2, chapter 286, Laws of 1984 and RCW 43.230.010 are each amended to read as follows:

(1) The athletic health care and training council is created. The council shall consist of fourteen members selected by the governor to serve four-year staggered terms. The terms of the initial members shall be as follows: Two members will serve a one-year term, four members will serve two-year terms, four members will serve three-year terms, and four members will serve four-year terms. The governor shall select the members to represent diverse racial and ethnic backgrounds, the different geographical areas of the state, and both men and women as follows: Two members shall be physicians licensed under chapter 18.57 or 18.71 RCW, two members shall be physical therapists licensed under chapter 18.74 RCW, two members shall be athletic trainers, two members shall be principals of public junior high schools in this state with one from a large district and one from a small district, two members shall be principals of public high schools in this state with one from a large district and one from a small district, two members shall be school district superintendents with one from a large district and one from a small district, one member shall be a representative of a private school which conducts junior and senior high school athletic programs, and one member shall be employed by or be an officer of an organization to which a school district has delegated control, supervision, and regulation of an activity under RCW ((28A.58.125)) 28A.600.200.

(2) The members of the council shall select the chairperson from among their members.

Sec. 584. Section 1, chapter 88, Laws of 1980 and RCW 46.16.035 are each amended to read as follows:

Any bus or vehicle owned and operated by a private school or schools meeting the requirements of RCW ((28A.02.201)) 28A.195.010 and used by that school or schools primarily to transport children to and from school or to transport children in connection with school activities shall be exempt from the payment of license fees for the licensing thereof as in this chapter provided. A license issued by the department for such bus or vehicle shall be considered an exempt license under RCW 82.44.010.

Sec. 585. Section 46.48.160, chapter 12, Laws of 1961 as amended by section 1, chapter 47, Laws of 1974 ex. sess. and RCW 46.61.385 are each amended to read as follows:

The superintendent of public instruction, through the superintendent of schools of any school district, or other officer or board performing like functions with respect to the schools of any other educational administrative district, may cause to be appointed voluntary adult recruits as supervisors and, from the student body of any public or private school or institution of learning, students, who shall be known as members of the "school patrol" and who shall serve without compensation and at the pleasure of the authority making the appointment.

The members of such school patrol shall wear an appropriate designation or insignia identifying them as members of the school patrol when in performance of their duties, and they may display "stop" or other proper traffic directional signs or signals at school crossings or other points where school children are crossing or about to cross a public highway, but members of the school patrol and their supervisors shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

School districts, at their discretion, may hire sufficient numbers of adults to serve as supervisors. Such adults shall be subordinate to and obey the orders of any peace officer present and having jurisdiction.

Any school district having a school patrol may purchase uniforms and other appropriate insignia, traffic signs and other appropriate materials, all to be used by members of such school patrol while in performance of their duties, and may pay for the same out of the general fund of the district.

It shall be unlawful for the operator of any vehicle to fail to stop his vehicle when directed to do so by a school patrol sign or signal displayed by a member of the school patrol engaged in the performance of his duty and wearing or displaying appropriate insignia, and it shall further be unlawful for the operator of a vehicle to disregard any other reasonable directions of a member of the school patrol when acting in performance of his duties as such.

School districts may expend funds from the general fund of the district to pay premiums for life and accident policies covering the members of the school patrol in their district while engaged in the performance of their school patrol duties.

Members of the school patrol shall be considered as employees for the purposes of RCW ((28A.58.425, as now or hereafter amended)) 28A.400.370.

Sec. 586. Section 3, chapter 33, Laws of 1982 as amended by section 113, chapter 7, Laws of 1985 and by section 2, chapter 120, Laws of 1985 and RCW 46.68.124 are each reenacted and amended to read as follows:

(1) The equivalent population for each county shall be computed as the sum of the population residing in the county's unincorporated area plus twenty-five percent of the population residing in the county's incorporated area. Population figures required for the computations in this subsection

shall be certified by the director of the office of financial management on or before July 1st of each odd-numbered year.

(2) The total annual road cost for each county shall be computed as the sum of one twenty-fifth of the total estimated county road replacement cost, plus the total estimated annual maintenance cost. Appropriate costs for bridges and ferries shall be included. The county road administration board shall be responsible for establishing a uniform system of roadway categories for both maintenance and construction and also for establishing a single state-wide cost per mile rate for each roadway category. The total annual cost for each county will be based on the established state-wide cost per mile and associated mileage for each category. The mileage to be used for these computations shall be as shown in the county road log as maintained by the county road administration board as of July 1, 1985, and each two years thereafter. Each county shall be responsible for submitting changes, corrections, and deletions as regards the county road log to the county road administration board. Such changes, corrections, and deletions shall be subject to verification and approval by the county road administration board prior to inclusion in the county road log.

(3) The money need factor for each county shall be the county's total annual road cost less the following four amounts:

(a) One-half the sum of the actual county road tax levied upon the valuation of all taxable property within the county road districts pursuant to RCW 36.82.040 for the two calendar years next preceding the year of computation of the allocation amounts as certified by the department of revenue;

(b) One-half the sum of all funds received by the county road fund from the federal forest reserve fund pursuant to RCW ((~~28A.02.300~~ and ~~28A.02.310~~) 28A.520.010 and 28A.520.020) during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(c) One-half the sum of timber excise taxes received by the county road fund pursuant to chapter 84.33 RCW in the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer;

(d) One-half the sum of motor vehicle license fees and motor vehicle and special fuel taxes refunded to the county, pursuant to RCW 46.68.080 during the two calendar years next preceding the year of computation of the allocation amounts as certified by the state treasurer.

(4) The state treasurer and the department of revenue shall furnish to the county road administration board the information required by subsection (3) of this section on or before July 1st of each odd-numbered year.

(5) The county road administration board, shall compute and provide to the counties the allocation factors of the several counties on or before September 1st of each year based solely upon the sources of information

herein before required: PROVIDED, That the allocation factor shall be held to a level not more than five percent above or five percent below the allocation factor in use during the previous calendar year. Upon computation of the actual allocation factors of the several counties, the county road administration board shall provide such factors to the state treasurer to be used in the computation of the counties' fuel tax allocation for the succeeding calendar year. The state treasurer shall adjust the fuel tax allocation of each county on January 1st of every year based solely upon the information provided by the county road administration board.

Sec. 587. Section 22, chapter 3, Laws of 1971 as last amended by section 2, chapter 140, Laws of 1984 and RCW 50.44.050 are each amended to read as follows:

Except as otherwise provided in subsections (1) through (4) of this section, benefits based on services in employment covered by or pursuant to this chapter shall be payable on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this title.

(1) Benefits based on service in an instructional, research or principal administrative capacity for an educational institution shall not be paid to an individual for any week of unemployment which commences during the period between two successive academic years or terms (or, when an agreement provides instead for a similar period between two regular but not successive terms, during such period) if such individual performs such services in the first of such academic years or terms and if there is a contract or reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms. Any employee of a common school district who is presumed to be reemployed pursuant to RCW ((28A-67-070)) 28A.405.210 shall be deemed to have a contract for the ensuing term.

(2) Benefits shall not be paid based on services in any other capacity for an educational institution for any week of unemployment which commences during the period between two successive academic years or terms, if such individual performs such services in the first of such academic years or terms and there is a reasonable assurance that such individual will perform such services in the second of such academic years or terms: PROVIDED, That if benefits are denied to any individual under this subsection and that individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, the individual is entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(3) Benefits shall not be paid based on any services described in subsections (1) and (2) of this section for any week of unemployment which commences during an established and customary vacation period or holiday

recess if such individual performs such services in the period immediately before such vacation period or holiday recess, and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(4) Benefits shall not be paid (as specified in subsections (1), (2), or (3) of this section) based on any services described in subsections (1) or (2) of this section to any individual who performed such services in an educational institution while in the employ of an educational service district which is established pursuant to chapter (~~28A.21~~) 28A.310 RCW and exists to provide services to local school districts.

Sec. 588. Section 112, chapter 271, Laws of 1989 and RCW 69.50.435 are each amended to read as follows:

(a) Any person who violates RCW 69.50.401(a) by manufacturing, selling, delivering, or possessing with the intent to manufacture, sell, or deliver a controlled substance listed under that subsection to a person in a school or on a school bus or within one thousand feet of a school bus route stop designated by the school district or within one thousand feet of the perimeter of the school grounds is punishable by a fine of up to twice the fine otherwise authorized by this chapter, but not including twice the fine authorized by RCW 69.50.406, or by imprisonment of up to twice the imprisonment otherwise authorized by this chapter, but not including twice the imprisonment authorized by RCW 69.50.406, or by both such fine and imprisonment.

(b) It is not a defense to a prosecution for a violation of this section that the person was unaware that the prohibited conduct took place while in a school or school bus or within one thousand feet of the school or school bus route stop.

(c) It is not a defense to a prosecution for a violation of this section or any other prosecution under this chapter that persons under the age of eighteen were not present in the school, the school bus, or at the school bus route stop at the time of the offense or that school was not in session.

(d) It is an affirmative defense to a prosecution for a violation of this section that the prohibited conduct took place entirely within a private residence, that no person under eighteen years of age or younger was present in such private residence at any time during the commission of the offense, and that the prohibited conduct did not involve delivering, manufacturing, selling, or possessing with the intent to manufacture, sell, or deliver any controlled substance in RCW 69.50.401(a) for profit. The affirmative defense established in this section shall be proved by the defendant by a preponderance of the evidence. This section shall not be construed to establish an affirmative defense with respect to a prosecution for an offense defined in any other section of this chapter.

(e) In a prosecution under this section, a map produced or reproduced by any municipal, school district, or county engineer for the purpose of depicting the location and boundaries of the area on or within one thousand feet of any property used for a school or school bus route stop, or a true copy of such a map, shall under proper authentication, be admissible and shall constitute prima facie evidence of the location and boundaries of those areas if the governing body of the municipality, school district, or county has adopted a resolution or ordinance approving the map as the official location and record of the location and boundaries of the area on or within one thousand feet of the school or school bus route stop. Any map approved under this section or a true copy of the map shall be filed with the clerk of the municipality or county, and shall be maintained as an official record of the municipality or county. This section shall not be construed as precluding the prosecution from introducing or relying upon any other evidence or testimony to establish any element of the offense. This section shall not be construed as precluding the use or admissibility of any map or diagram other than the one which has been approved by the governing body of a municipality, school district, or county if the map or diagram is otherwise admissible under court rule.

(f) As used in this section the following terms have the meanings indicated unless the context clearly requires otherwise:

(1) "School" has the meaning under RCW (~~((28A.01.055 or 28A.01.060))~~ 28A.150.010 or 28A.150.020). The term "school" also includes a private school approved under RCW (~~((28A.02.201))~~ 28A.195.010;

(2) "School bus" means a school bus as defined by the superintendent of public instruction by rule which is owned and operated by any school district and all school buses which are privately owned and operated under contract or otherwise with any school district in the state for the transportation of students. The term does not include buses operated by common carriers in the urban transportation of students such as transportation of students through a municipal transportation system; and

(3) "School bus route stop" means a school bus stop as designated on maps submitted by school districts to the office of the superintendent of public instruction.

Sec. 589. Section 705, chapter 176, Laws of 1988 and RCW 71A.20.050 are each amended to read as follows:

(1) The secretary shall appoint a superintendent for each residential habilitation center. The superintendent of a residential habilitation center shall have a demonstrated history of knowledge, understanding, and compassion for the needs, treatment, and training of persons with developmental disabilities.

(2) The secretary shall have custody of all residents of the residential habilitation centers and control of the medical, educational, therapeutic, and dietetic treatment of all residents, except that the school district that

conducts the program of education provided pursuant to RCW (~~(28A.58-772 through 28A.58.776)~~) 28A.190.030 through 28A.190.050 shall have control of and joint custody of residents while they are participating in the program. The secretary shall cause surgery to be performed on any resident only upon gaining the consent of a parent, guardian, or limited guardian as authorized, except, if after reasonable effort to locate the parents, guardian, or limited guardian as authorized, and the health of the resident is certified by the attending physician to be jeopardized unless such surgery is performed, the required consent shall not be necessary.

Sec. 590. Section 707, chapter 176, Laws of 1988 and RCW 71A.20-.070 are each amended to read as follows:

(1) An educational program shall be created and maintained for each residential habilitation center pursuant to RCW (~~(28A.58.772 through 28A.58.776)~~) 28A.190.030 through 28A.190.050. The educational program shall provide a comprehensive program of academic, vocational, recreational, and other educational services best adapted to meet the needs and capabilities of each resident.

(2) The superintendent of public instruction shall assist the secretary in all feasible ways, including financial aid, so that the educational programs maintained within the residential habilitation centers are comparable to the programs advocated by the superintendent of public instruction for children with similar aptitudes in local school districts.

(3) Within available resources, the secretary shall, upon request from a local school district, provide such clinical, counseling, and evaluating services as may assist the local district lacking such professional resources in determining the needs of its exceptional children.

Sec. 591. Section 72.01.200, chapter 28, Laws of 1959 as amended by section 6, chapter 217, Laws of 1979 ex. sess. and RCW 72.01.200 are each amended to read as follows:

The several penal and reformatory institutions of the state may employ certificated teachers to carry on their educational work, except for the educational programs provided pursuant to RCW (~~(28A.58.772 through 28A.58.776, as now or hereafter amended;)~~) 28A.190.030 through 28A.190.050 and all such teachers so employed shall be eligible to membership in the state teachers' retirement fund.

Sec. 592. Section 72.05.130, chapter 28, Laws of 1959 as last amended by section 10, chapter 378, Laws of 1985 and RCW 72.05.130 are each amended to read as follows:

The department shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities controlled

and operated by the department, except for the programs of education provided pursuant to RCW (~~(28A.58.772 through 28A.58.776, as now or hereafter amended;)~~) 28A.190.030 through 28A.190.050 which shall be established, operated and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of mentally and physically handicapped, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the secretary. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary determines it necessary, the secretary may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility: PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court.

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school and Maple Lane school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school and Maple Lane school are hereby designated as "close security" institutions to which shall be given the custody of children with the most serious behavior problems.

Sec. 593. Section 72.20.040, chapter 28, Laws of 1959 as last amended by section 10, chapter 217, Laws of 1979 ex. sess. and RCW 72.20.040 are each amended to read as follows:

The superintendent, subject to the direction and approval of the secretary shall:

(1) Have general supervision and control of the grounds and buildings of the institution, the subordinate officers and employees, and the inmates thereof, and all matters relating to their government and discipline.

(2) Make such rules, regulations and orders, not inconsistent with law or with the rules, regulations or directions of the secretary, as may seem to him proper or necessary for the government of such institution and for the employment, discipline and education of the inmates, except for the program of education provided pursuant to RCW ((~~28A.58.772 through 28A.58.776, as now or hereafter amended;~~) 28A.190.030 through 28A.190.050 which shall be governed by the school district conducting the program.

(3) Exercise such other powers, and perform such other duties as the secretary may prescribe.

Sec. 594. Section 5, chapter 30, Laws of 1967 ex. sess. as last amended by section 3, chapter 400, Laws of 1989 and by section 10, chapter 427, Laws of 1989 and RCW 74.09.520 are each reenacted and amended to read as follows:

(1) The term "medical assistance" may include the following care and services: (a) Inpatient hospital services; (b) outpatient hospital services; (c) other laboratory and x-ray services; (d) skilled nursing home services; (e) physicians' services, which shall include prescribed medication and instruction on birth control devices; (f) medical care, or any other type of remedial care as may be established by the secretary; (g) home health care services; (h) private duty nursing services; (i) dental services; (j) physical therapy and related services; (k) prescribed drugs, dentures, and prosthetic devices; and eyeglasses prescribed by a physician skilled in diseases of the eye or by an optometrist, whichever the individual may select; (l) personal care services, as provided in this section; (m) hospice services; (n) other diagnostic, screening, preventive, and rehabilitative services; and (o) like services when furnished to a handicapped child by a school district as part of an individualized education program established pursuant to ((~~chapter 28A.13~~)) RCW 28A.155.010 through 28A.155.100. For the purposes of this section, the department may not cut off any prescription medications, oxygen supplies, respiratory services, or other life-sustaining medical services or supplies.

"Medical assistance," notwithstanding any other provision of law, shall not include routine foot care, or dental services delivered by any health care provider, that are not mandated by Title XIX of the social security act unless there is a specific appropriation for these services. Services included in an individualized education program for a handicapped child under ((~~chapter 28A.13~~)) RCW 28A.155.010 through 28A.155.100 shall not qualify as

medical assistance prior to the implementation of the funding process developed under RCW 74.09.524.

(2) The department shall amend the state plan for medical assistance under Title XIX of the federal social security act to include personal care services, as defined in 42 C.F.R. 440.170(f), in the categorically needy program.

(3) The department shall adopt, amend, or rescind such administrative rules as are necessary to ensure that Title XIX personal care services are provided to eligible persons in conformance with federal regulations.

(a) These administrative rules shall include financial eligibility indexed according to the requirements of the social security act providing for medicaid eligibility.

(b) The rules shall require clients be assessed as having a medical condition requiring assistance with personal care tasks. Plans of care must be approved by a physician and reviewed by a nurse every ninety days.

(4) The department shall design and implement a means to assess the level of functional disability of persons eligible for personal care services under this section. The personal care services benefit shall be provided to the extent funding is available according to the assessed level of functional disability. Any reductions in services made necessary for funding reasons should be accomplished in a manner that assures that priority for maintaining services is given to persons with the greatest need as determined by the assessment of functional disability.

(5) The department shall report to the appropriate fiscal committees of the legislature on the utilization and associated costs of the personal care option under Title XIX of the federal social security act, as defined in 42 C.F.R. 440.170(f), in the categorically needy program. This report shall be submitted by January 1, 1990, and submitted on a yearly basis thereafter.

(6) Effective July 1, 1989, the department shall offer hospice services in accordance with available funds. The department shall provide a complete accounting of the costs of providing hospice services under this section by December 20, 1989. The report shall include an assessment of cost savings which may result by providing hospice to persons who otherwise would use hospitals, nursing homes, or more expensive care. The hospice benefit under this section shall terminate on April 1, 1990, unless extended by the legislature.

Sec. 595. Section 4, chapter 400, Laws of 1989 and RCW 74.09.524 are each amended to read as follows:

The department of social and health services and the superintendent of public instruction shall jointly develop a process and plan to enable school districts to bill medical assistance for eligible services included in handicapped education programs, subject to the restrictions and limitations of ((this act)) RCW 28A.150.390, 74.09.520, and 74.09.524. The process shall be implemented during the 1990-91 school year, with the intent that the

billing system be in operation in selected regions of the state during the first half of that school year. The billing system shall be extended state-wide prior to the beginning of the 1991-92 school year. The planning shall include:

(1) Consideration of the types of services provided by school districts that would be eligible for medical assistance, and whether the state's medical assistance plan should be expanded to cover additional services for children;

(2) Establishment of categories of eligible services and the rates of reimbursement;

(3) Development of a state-wide billing system for use by school districts and educational service districts, which may include phased expansion of the system, providing billing services to the various regions of the state in stages;

(4) Measures for accountability and auditing of billings;

(5) Information bulletins and workshops for school districts and educational service districts;

(6) Contracting with educational service districts or other organizations for billing services or for other assistance in implementing the process established under this section;

(7) Formal agreements between the department and the superintendent of public instruction for notification of payments and for interagency reimbursement under RCW ((~~28A.41.053~~) 28A.150.390); and

(8) Review and approval of the plan by the office of financial management prior to submission to the legislature of the report under section 5 of this act.

Sec. 596. Section 3, chapter 200, Laws of 1971 ex. sess. and RCW 79.01.774 are each amended to read as follows:

The purchases authorized under RCW 79.01.770 shall be classified as for the construction of common school plant facilities under ((~~chapter 28A-47~~) RCW 28A.525.010 through 28A.525.222 and shall be payable out of the common school construction fund as otherwise provided for in RCW ((~~28A.40.100~~) 28A.515.320 if the school district involved was under emergency school construction classification as established by the state board of education at any time during the period of its lease of state lands.

Sec. 597. Section 3, chapter 100, Laws of 1987 and RCW 84.09.037 are each amended to read as follows:

Each school district affected by a transfer of territory from one school district to another school district under chapter ((~~28A-57~~) 28A.315 RCW shall retain its preexisting boundaries for the purpose of the collection of excess tax levies authorized under RCW 84.52.053 before the effective date of the transfer, for such tax collection years and for such excess tax levies as the state board of education may approve and order that the transferred territory shall either be subject to or relieved of such excess levies, as the

case may be. For the purpose of all other excess tax levies previously authorized under chapter 84.52 RCW and all excess tax levies authorized under RCW 84.52.053 subsequent to the effective date of a transfer of territory, the boundaries of the affected school districts shall be modified to recognize the transfer of territory subject to RCW 84.09.030.

Sec. 598. Section 1, chapter 294, Laws of 1971 ex. sess. as amended by section 16, chapter 204, Laws of 1984 and RCW 84.33.010 are each amended to read as follows:

As a result of the study and analysis of systems of taxation of standing timber and forest lands by the forest tax committee pursuant to Senate Concurrent Resolution No. 30 of the 41st session of the legislature, and the recommendations of the committee based thereon, the legislature hereby finds that:

(1) The public welfare requires that this state's system for taxation of timber and forest lands be modernized to assure the citizens of this state and its future generations the advantages to be derived from the continuous production of timber and forest products from the significant area of privately owned forests in this state. It is this state's policy to encourage forestry and restocking and reforestation of such forests so that present and future generations will enjoy the benefits which forest areas provide in enhancing water supply, in minimizing soil erosion, storm and flood damage to persons or property, in providing a habitat for wild game, in providing scenic and recreational spaces, in maintaining land areas whose forests contribute to the natural ecological equilibrium, and in providing employment and profits to its citizens and raw materials for products needed by everyone.

(2) The combination of variations in quantities, qualities and locations of timber and forest lands, the fact that market areas for timber products are nation-wide and world-wide and the unique long term nature of investment costs and risks associated with growing timber, all make exceedingly difficult the function of valuing and assessing timber and forest lands.

(3) The existing ad valorem property tax system is unsatisfactory for taxation of standing timber and forest land and will significantly frustrate, to an ever increasing degree with the passage of time, the perpetual enjoyment of the benefits enumerated above.

(4) For these reasons it is desirable, in exercise of the powers to promote the general welfare and to impose taxes; that

(a) the ad valorem system for taxing timber be modified and discontinued in stages over a three year period during which such system will be replaced by one under which timber will be taxed on the basis of stumpage value at the time of harvest, and

(b) forest land remain under the ad valorem taxation system but be taxed only as provided in this chapter and RCW ((28A.41.130)) 28A.150.250.

Sec. 599. Section 2, chapter 294, Laws of 1971 ex. sess. as amended by section 17, chapter 204, Laws of 1984 and RCW 84.33.020 are each amended to read as follows:

Lands not heretofore so classified, which are primarily devoted to and used for growing and harvesting timber are hereby classified as lands devoted to reforestation and such lands and timber shall be taxed in accordance with the provisions of this chapter and RCW (~~(28A.41.130)~~) 28A.150.250.

Sec. 600. Section 16, chapter 294, Laws of 1971 ex. sess. as amended by section 225, chapter 3, Laws of 1983 and RCW 84.33.160 are each amended to read as follows:

Land approved for classification pursuant to RCW 84.28.020 prior to May 21, 1971 under chapter 84.28 RCW as reforestation lands, and the timber on such lands, shall be assessed and taxed in accordance with the applicable provision of chapter 84.28 RCW and shall not be subject to this chapter and RCW (~~(28A.41.130)~~) 28A.150.250. However, after May 21, 1971, no additional land shall be classified under chapter 84.28 RCW.

Sec. 601. Section 1, chapter 374, Laws of 1985 as last amended by section 1, chapter 141, Laws of 1989 and RCW 84.52.0531 are each amended to read as follows:

The maximum dollar amount which may be levied by or for any school district for maintenance and operation support under the provisions of RCW 84.52.053 shall be determined as follows:

(1) For the purpose of this section, the basic education allocation shall be determined pursuant to RCW (~~(28A.41.130, 28A.41.140, and 28A.41.145, as now or hereafter amended)~~) 28A.150.250, 28A.150.260, and 28A.150.350; PROVIDED, That when determining the basic education allocation under subsection (4) of this section, nonresident full time equivalent pupils who are participating in a program provided for in chapter (~~(28A.44)~~) 28A.545 RCW or in any other program pursuant to an inter-district agreement shall be included in the enrollment of the resident district and excluded from the enrollment of the serving district.

(2) For the purposes of subsection (5) of this section, a base year levy percentage shall be established. The base year levy percentage shall be equal to the greater of: (a) The district's actual levy percentage for calendar year 1985, (b) the average levy percentage for all school district levies in the state in calendar year 1985, or (c) the average levy percentage for all school district levies in the educational service district of the district in calendar year 1985.

(3) For excess levies for collection in calendar year 1988 and thereafter, the maximum dollar amount shall be the total of:

(a) The district's levy base as defined in subsection (4) of this section multiplied by the district's maximum levy percentage as defined in subsections (5) and (6) of this section; plus

(b) In the case of nonhigh (~~((school))~~) school districts only, an amount equal to the total estimated amount due by the nonhigh school district to high school districts pursuant to chapter (~~(28A.44)~~) 28A.545 RCW for the school year during which collection of the levy is to commence, less the increase in the nonhigh school district's basic education allocation as computed pursuant to subsection (1) of this section due to the inclusion of pupils participating in a program provided for in chapter (~~(28A.44)~~) 28A.545 RCW in such computation; less

(c) The maximum amount of state matching funds under RCW (~~(28A.41.155)~~) 28A.500.010 for which the district is eligible in that tax collection year.

(4) For excess levies for collection in calendar year 1988 and thereafter, a district's levy base shall be the sum of the following allocations received by the district for the prior school year, including allocations for compensation increases, adjusted by the percent increase per full time equivalent student in the state basic education appropriation between the prior school year and the current school year:

(a) The district's basic education allocation as determined pursuant to RCW (~~(28A.41.130, 28A.41.140, and 28A.41.145)~~) 28A.150.250, 28A.150.260, and 28A.150.350;

(b) State and federal categorical allocations for the following programs:

- (i) Pupil transportation;
- (ii) Handicapped education;
- (iii) Education of highly capable students;
- (iv) Compensatory education, including but not limited to learning assistance, migrant education, Indian education, refugee programs, and bilingual education;
- (v) Food services; and
- (vi) State-wide block grant programs; and

(c) Any other federal allocations for elementary and secondary school programs, including direct grants, other than federal impact aid funds and allocations in lieu of taxes.

(5) For levies to be collected in calendar year 1988, a district's maximum levy percentage shall be determined as follows:

(a) Multiply the district's base year levy percentage as defined in subsection (2) of this section by the district's levy base as determined in subsection (4) of this section;

(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (7) of this section which are to be allocated to the district for the 1987-88 school year;

(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and

(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in calendar year 1988.

(6) For excess levies for collection in calendar year 1989 and thereafter, a district's maximum levy percentage shall be determined as follows:

(a) Multiply the district's maximum levy percentage for the prior year or thirty percent, whichever is less, by the district's levy base as determined in subsection (4) of this section;

(b) Reduce the amount in (a) of this subsection by the total estimated amount of any levy reduction funds as defined in subsection (7) of this section which are to be allocated to the district for the current school year;

(c) Divide the amount in (b) of this subsection by the district's levy base to compute a new percentage; and

(d) The percentage in (c) of this subsection or twenty percent, whichever is greater, shall be the district's maximum levy percentage for levies collected in that calendar year.

(7) "Levy reduction funds" shall mean increases in state funds from the prior school year for programs included under subsection (4) of this section: (a) That are not attributable to enrollment changes, compensation increases, or inflationary adjustments; and (b) that are or were specifically identified as levy reduction funds in the appropriations act. If levy reduction funds are dependent on formula factors which would not be finalized until after the start of the current school year, the superintendent of public instruction shall estimate the total amount of levy reduction funds by using prior school year data in place of current school year data. Levy reduction funds shall not include moneys received by school districts from cities or counties.

(8) For the purposes of this section, "prior school year" shall mean the most recent school year completed prior to the year in which the levies are to be collected.

(9) For the purposes of this section, "current school year" shall mean the year immediately following the prior school year.

(10) The superintendent of public instruction shall develop rules and regulations and inform school districts of the pertinent data necessary to carry out the provisions of this section.

NEW SECTION. Sec. 602. The following sections are each decodified:

- (1) RCW 28A.04.167;
- (2) RCW 28A.04.170;
- (3) RCW 28A.04.172;
- (4) RCW 28A.04.174; and
- (5) RCW 28A.70.900.

NEW SECTION. Sec. 603. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act

or the application of the provision to other persons or circumstances is not affected.

Passed the House January 19, 1990.
Passed the Senate February 26, 1990.
Approved by the Governor March 13, 1990.
Filed in Office of Secretary of State March 13, 1990.

CHAPTER 34

[House Bill No. 2292]

FAMILY FISHING DAYS

AN ACT Relating to authorizing family fishing days for food fish and shellfish; creating a new section; and adding a new section to chapter 75.25 RCW.

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

NEW SECTION. Sec. 1. The legislature finds that conservation and wise use of the state's food fish and shellfish resources are of paramount importance. The legislature finds that public awareness and enjoyment is critical to conserving the state's food fish and shellfish resources. The legislature finds that public awareness can be increased if the departments of wildlife and fisheries jointly participate in a national fishing week program by scheduling free family fishing days on the same days.

NEW SECTION. Sec. 2. A new section is added to chapter 75.25 RCW to read as follows:

Notwithstanding RCW 75.25.090, the director may adopt rules designating times and places for the purposes of family fishing days when a recreational fishing license is not required to fish for food fish or shellfish. All other applicable laws and rules shall remain in effect.

Passed the House January 29, 1990.
Passed the Senate February 26, 1990.
Approved by the Governor March 13, 1990.
Filed in Office of Secretary of State March 13, 1990.

CHAPTER 35

[Substitute House Bill No. 2293]

GROUP FISHING PERMITS—HANDICAPPED PERSONS

AN ACT Relating to group fishing permits; amending RCW 75.08.011 and 77.32.235; adding a new section to chapter 75.25 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. It is the intent of the legislature to make recreational fishing opportunities more available to physically or mentally

handicapped persons, mentally ill persons, hospital patients, and senior citizens who are in the care of a state-licensed or state-operated care facility by allowing the department of fisheries to issue group fishing permits.

NEW SECTION. Sec. 2. A new section is added to chapter 75.25 RCW to read as follows:

Physically or mentally handicapped persons, mentally ill persons, hospital patients, and senior citizens who are in the care of a state-licensed or state-operated care facility may fish for food fish and shellfish during open season without individual licenses or the payment of individual license fees if such fishing activity is occasional, is conducted in a group supervised by staff of the care facility, and the facility holds a group fishing permit issued by the director. The director shall issue such a permit upon application by care facility staff.

Sec. 3. Section 75.04.010, chapter 12, Laws of 1955 as last amended by section 1, chapter 218, Laws of 1989 and RCW 75.08.011 are each 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 fisheries.
- (2) "Department" means the department of fisheries.
- (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.
- (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" 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 abode within the state, has established by formal evidence an intent to continue residing within the state, and is not licensed to 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 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 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.

Sec. 4. Section 1, chapter 33, Laws of 1984 and RCW 77.32.235 are each amended to read as follows:

Physically or mentally handicapped persons, hospital patients, and senior citizens may fish for game fish during open season without individual licenses or the payment of individual license fees if such fishing activity is occasional, is conducted in a group supervised by staff of a (~~department of social and health services~~) state-licensed or state-operated care facility, and the facility holds a group fishing permit issued by the director. The director shall issue such a permit upon application by care facility staff.

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

Passed the House January 29, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 36

[House Bill No. 2294]

SALE OF SALMON TAKEN IN TEST FISHING OPERATIONS

AN ACT Relating to salmon taken in test fishing operations; and amending RCW 75.08.255.

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

Sec. 1. Section 75.12.130, chapter 12, Laws of 1955 as last amended by section 1, chapter 28, Laws of 1985 and RCW 75.08.255 are each amended to read as follows:

(1) The director may take or remove any species of fish or shellfish from the waters or beaches of the state.

(2) The director may sell food fish or shellfish caught or taken during department test fishing operations. (~~Salmon taken in test fishing operations shall only be sold during a season open to commercial fishing in the district in which the test fishing is conducted.~~)

(3) The director shall not sell inedible salmon for human consumption. Salmon and carcasses may be given to state institutions or schools or to economically depressed people, unless the salmon are unfit for human consumption. Salmon not fit for human consumption may be sold by the director for animal food, fish food, or for industrial purposes.

(4) In the sale of surplus salmon from state hatcheries, the division of purchasing shall require that a portion of the surplus salmon be processed and returned to the state by the purchaser. The processed salmon shall be fit for human consumption and in a form suitable for distribution to individuals. The division of purchasing shall establish the required percentage at a level that does not discourage competitive bidding for the surplus salmon.

The measure of the percentage is the combined value of all of the surplus salmon sold. The department of social and health services shall distribute the processed salmon to economically depressed individuals and state institutions pursuant to rules adopted by the department of social and health services.

Passed the House January 29, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 37

[Substitute Senate Bill No. 6289]

DEPARTMENT OF AGRICULTURE—ADMINISTRATIVE DIVISIONS

AN ACT Relating to administrative divisions of the department of agriculture; and amending RCW 43.23.010 and 41.06.084.

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

Sec. 1. Section 43.23.010, chapter 8, Laws of 1965 as last amended by section 3, chapter 248, Laws of 1983 and RCW 43.23.010 are each amended to read as follows:

~~((The department of agriculture shall be organized into administrative divisions that the director deems necessary to promote efficient public management, to improve programs, and to take full advantage of both fiscal and administrative economics. The director shall appoint and deputize not more than six assistant directors as necessary to administer the several divisions within the department:))~~ In order to obtain maximum efficiency and effectiveness within the department of agriculture, the director may create such administrative divisions within the department as he or she deems necessary. The director shall appoint a deputy director as well as such assistant directors as shall be needed to administer the several divisions within the department. The director shall appoint no more than eight assistant directors. The officers appointed under this section are exempt from the provisions of the state civil service law as provided in RCW 41.06.070(7), and shall be paid salaries to be fixed by the governor in accordance with the procedure established by law for the fixing of salaries for officers exempt from the operation of the state civil service law. The director shall also appoint and deputize a state veterinarian who shall be an experienced veterinarian properly licensed to practice veterinary medicine in this state. ~~((The officers appointed under this section shall be paid salaries in an amount fixed by the governor:))~~

The director of agriculture shall have charge and general supervision of the department and may assign supervisory and administrative duties other

than those specified in RCW 43.23.070 to the division which in his or her judgment can most efficiently carry on those functions.

Sec. 2. Section 11, chapter 248, Laws of 1983 and RCW 41.06.084 are each amended to read as follows:

In addition to the exemptions set forth in RCW 41.06.070, the provisions of this chapter shall not apply in the department of agriculture to the director, the director's confidential secretary, the deputy director, not more than ~~((six))~~ eight assistant directors, and the state veterinarian.

Passed the Senate February 6, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 38

[House Bill No. 1881]

IRRIGATION DISTRICT DIRECTORS—MEETING EXPENSES

AN ACT Relating to irrigation districts; and amending RCW 87.03.460.

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

Sec. 1. Section 39, page 692, Laws of 1889-90 as last amended by section 4, chapter 168, Laws of 1984 and RCW 87.03.460 are each amended to read as follows:

~~((The directors shall each receive not to exceed forty dollars per day in attending meetings and while performing other services for the district, to be fixed by resolution and entered in the minutes of their proceedings, and))~~
In addition ((thereto)) to their reasonable expenses in accordance with chapter 42.24 RCW, the directors shall each receive an amount for attending meetings and while performing other services for the district. The amount shall be fixed by resolution and entered in the minutes of the proceedings of the board. It shall not exceed fifty dollars for each day or portion thereof spent by a director for such attendance or performance. The total amount of such additional compensation received by a director may not exceed four thousand eight hundred dollars in a calendar year. The board shall fix the compensation of the secretary and all other employees.

Passed the House January 29, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 39

[Substitute House Bill No. 1394]

IRRIGATION DISTRICTS—CONTRACTS, AWARDING OF

AN ACT Relating to irrigation districts; amending RCW 87.03.435; and adding a new section to chapter 87.03 RCW.

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

Sec. 1. Section 35, page 689, Laws of 1889-90 as last amended by section 3, chapter 168, Laws of 1984 and RCW 87.03.435 are each amended to read as follows:

(1) Any person to whom a contract may have been awarded for the construction of a canal or any of the works of the district, or any portion thereof, or for the furnishing of labor or material, shall enter into a bond with good and sufficient sureties, to be approved by the board of directors, payable to the district for its use, for at least twenty-five percent of the amount of the contract price, conditioned for the faithful performance of said contract, and with such further conditions as may be required by law in the case of contracts for public work, and as may be required by resolution of the board. All works shall be done under the direction and to the satisfaction of the engineer of the district, and be approved by the board. Except as provided in subsections (2) and (3) of this section and section 2 of this 1990 act, whenever in the construction of the district canal or canals, or other works, or the furnishing of materials therefor, the board of directors shall determine to let a contract or contracts for the doing of the work or the furnishing of the materials, a notice calling for sealed proposals shall be published. The notice shall be published in a newspaper in the county in which the office of the board is situated, and in any other newspaper which may be designated by the board, and for such length of time, not less than once each week for two weeks, as may be fixed by the board. At the time and place appointed in the notice for the opening of bids, the sealed proposals shall be opened in public, and as soon as convenient thereafter, the board shall let the work or the contract for the purchase of materials, either in portions or as a whole, to the lowest responsible bidder, or the board may reject any or all bids and readvertise, or may proceed to construct the work under its own superintendence~~((PROVIDED, That))~~.

(2) The provisions of this section in regard to public bidding shall not apply in cases where the board is authorized to exchange bonds of the district in payment for labor and material~~((PROVIDED FURTHER, That))~~.

(3) The provisions of this section ~~((shall))~~ do not apply:

(a) In the case of any contract between the district and the United States;

(b) In the case of an emergency when the public interest or property of the district would suffer material injury or damage by delay, upon resolution of the board of directors or proclamation of an official designated by the board to act for the board during such emergencies. The resolution or proclamation shall declare the existence of the emergency and recite the facts constituting the emergency; or

(c) To purchases which are clearly and legitimately limited to a single source of supply or to purchases involving special facilities, services, or market conditions, in which instances the purchase price may be best established by direct negotiation.

NEW SECTION. Sec. 2. A new section is added to chapter 87.03 RCW to read as follows:

All contract projects, the estimated cost of which is less than one hundred thousand dollars, may be awarded to a contractor on the small works roster. The small works roster shall be comprised of all responsible contractors who have requested to be on the list. The board of directors shall authorize by resolution a procedure for securing telephone and/or written quotations from the contractors on the small works roster to assure establishment of a competitive price and for awarding contracts to the lowest responsible bidder. Such procedure shall require that a good-faith effort be made to request quotations from all responsible contractors on the small works roster. Immediately after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry. The small works roster shall be revised once a year.

Passed the House February 13, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 40

[House Bill No. 1571]

PORT COMMISSIONERS—VACANCIES IN OFFICE—SERVICE OF SUCCESSOR

AN ACT Relating to port district vacancies; and amending RCW 53.12.150.

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

Sec. 1. Section 8, chapter 17, Laws of 1959 as last amended by section 1, chapter 87, Laws of 1985 and RCW 53.12.150 are each amended to read as follows:

A vacancy in the office of port commissioner created by death, resignation, or otherwise, shall be filled as follows:

(1) If there are simultaneously such number of vacancies that less than a majority of the full number of commissioners fixed by law remain in office, the legislative authority of the county shall within thirty days of such

vacancies appoint the number of commissioners necessary to provide a majority. The commissioners thus appointed, together with any remaining commissioners, shall then, within sixty days of their appointment, meet and appoint the number of commissioners needed to complete the board of commissioners. However, if they fail to fill the remaining vacancies within this sixty-day period, the legislative authority of the county shall make the necessary appointments.

(2) If a majority of the full number of commissioners fixed by law remains on the board, the remaining commissioners shall fill any vacancies. However, if they fail to fill any vacancy within sixty days of its occurrence, the legislative authority of the county shall make the necessary appointment.

(3) A person appointed to fill a vacancy in the office of port commissioner shall serve until a successor is elected and qualified (~~at the next district general election occurring sixty or more days after the vacancy has occurred~~) under chapter 29.21 RCW. The person who is elected shall take office immediately after he or she is qualified and shall serve the remainder of the unexpired term. (~~However, if at this next district general election an election would have otherwise been held to elect a person to the position in which a vacancy has occurred, a separate election shall not be held to elect a person to fill the vacancy during the remainder of the unexpired term. The person who is elected at this election for this position shall take office immediately upon being qualified and shall serve for both the remainder of the unexpired term in addition to the full term to which he or she is elected.~~)

Passed the House January 19, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 41

[House Bill No. 2262]

BAILEES—REIMBURSEMENT FROM SALE OF UNCLAIMED PROPERTY

AN ACT Relating to a bailee's liability to an owner; and amending RCW 63.24.170.

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

Sec. 1. Section 6, chapter 154, Laws of 1981 and RCW 63.24.170 are each amended to read as follows:

A bailee is not liable to the owner for unclaimed property disposed of in good faith in accordance with the requirements of this chapter. A bailee shall be reimbursed from the proceeds of sale of any unclaimed property disposed of under RCW 63.24.160 for the reasonable costs or charges for

any goods or services provided by the bailee regarding the property, and for the costs to provide notice to the owner.

Passed the House February 12, 1990.

Passed the Senate February 23, 1990.

Approved by the Governor March 13, 1990.

Filed in Office of Secretary of State March 13, 1990.

CHAPTER 42

[Substitute Senate Bill No. 6358]
TRANSPORTATION TAXES

AN ACT Relating to transportation taxes; amending RCW 82.36.025, 46.68.090, 36.79-.140, 46.16.070, 46.68.035, 46.44.0941, 46.44.095, 46.68.030, 46.16.030, 46.87.020, 46.87.070, 46.87.120, 46.87.140, 46.09.170, 43.99.070, 46.10.170, 82.36.030, 82.38.150, 82.36.440, 82.38-.280, 46.08.010, 82.44.010, 82.44.020, 82.44.060, 82.44.110, 82.44.120, 82.44.150, 82.44.160, 82.44.170, 82.14.200, 82.14.210, 35.58.2721, 35.58.273, 43.62.010, 46.16.015, 82.50.400, 82-.50.410, 82.50.510, 46.12.360, 47.56.711, 47.60.326, 47.60.420, and 47.60.440; reenacting and amending RCW 82.02.030 and 47.60.150; adding new sections to chapter 46.68 RCW; adding a new section to chapter 47.60 RCW; adding new sections to chapter 82.44 RCW; adding new sections to chapter 82.50 RCW; adding a new chapter to Title 82 RCW; creating new sections; repealing RCW 82.44.013, 82.44.040, 82.44.045, 82.44.050, 82.50.420, 82.50.430, 47.56.712, 47.56.713, 47.56.714, 47.56.715, 47.56.716, 47.56.365, 47.60.160, and 47.60.543; providing effective dates; and declaring an emergency.

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

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PURPOSE

NEW SECTION. Sec. 1. **PURPOSE OF STATE AND LOCAL TRANSPORTATION FUNDING PROGRAM.** (1) The legislature finds that a new comprehensive funding program is required to maintain the state's commitment to the growing mobility needs of its citizens and commerce. The transportation funding program is intended to satisfy the following state policies and objectives:

(a) State-wide system: Provide for preservation of the existing state-wide system and improvements for current and expected capacity needs in rural, established urban, and growing suburban areas throughout the state;

(b) Local flexibility: Provide for necessary state highway improvements, as well as providing local governments with the option to use new funding sources for projects meeting local and regional needs;

(c) Multimodal: Provide a source of funds that may be used for multimodal transportation purposes;

(d) Program compatibility: Implement transportation facilities and services that are consistent with adopted land use and transportation plans and coordinated with recently authorized programs such as the act authorizing creation of transportation benefit districts and the local transportation act of 1988;

(e) Interjurisdictional cooperation: Encourage transportation planning and projects that are multijurisdictional in their conception, development, and benefit, recognizing that mobility problems do not respect jurisdictional boundaries;

(f) Public and private sector: Use a state, local, and private sector partnership that equitably shares the burden of meeting transportation needs.

(2) The legislature further recognizes that the revenues currently available to the state and to counties, cities, and transit authorities for highway, road, and street construction and preservation fall far short of the identified need. The 1988 Washington road jurisdiction study identified a state-wide funding shortfall of between \$14.6 and \$19.9 billion to bring existing roads to acceptable standards. The gap between identified transportation needs and available revenues continues to increase. A comprehensive transportation funding program is required to meet the current and anticipated future needs of this state.

(3) The legislature further recognizes the desirability of making certain changes in the collection and distribution of motor vehicle excise taxes with the following objectives: Simplifying administration and collection of the taxes including adoption of a predictable depreciation schedule for vehicles; simplifying the allocation of the taxes among various recipients; and the dedication of a portion of motor vehicle excise taxes for transportation purposes.

(4) The legislature, therefore, declares a need for the three-part funding program embodied in this act: (a) State-wide funding for highways, roads, and streets in urban and rural areas; (b) local option funding authority, available immediately, for the construction and preservation of roads, streets, and transit improvements and facilities; and (c) the creation of a multimodal transportation fund that is funded through dedication of a portion of motor vehicle excise tax. This funding program is intended, by targeting certain new revenues, to produce a significant increase in the overall capacity of the state, county, and city transportation systems to satisfy and efficiently accommodate the movement of people and goods.

PART I: STATE-WIDE PROGRAM

Sec. 101. STATE-WIDE MOTOR VEHICLE FUEL TAXES. Section 6, chapter 317, Laws of 1977 ex. sess. as last amended by section 27, chapter 49, Laws of 1983 1st ex. sess. and RCW 82.36.025 are each amended to read as follows:

The motor vehicle fuel tax rate shall be computed as the sum of the tax rate provided in subsection (1) of this section and the additional tax rates provided in subsections (2) through ~~((4))~~ (5) of this section.

(1) ~~((Except as required in subsection (5) of this section;))~~ A motor vehicle fuel tax rate of ~~((fifteen))~~ seventeen cents per gallon shall apply to the sale, distribution, or use of motor vehicle fuel ~~((from July 1, 1983, through June 30, 1984, and a motor vehicle fuel tax rate of seventeen cents per gallon shall apply thereafter)).~~

(2) An additional motor vehicle fuel tax rate of one-third cent per gallon shall apply to the sale, distribution, or use of motor vehicle fuel, and the proceeds from this additional tax rate, reduced by an amount equal to the sum of the payments under RCW 46.68.090 ~~((+ and (2)))~~ (1) (a) and (b) multiplied by the additional tax rate prescribed by this subsection divided by the motor vehicle fuel tax rate provided in this section, shall be deposited in the rural arterial trust account in the motor vehicle fund for expenditures under RCW 36.79.020.

(3) An additional motor vehicle fuel tax rate of one-third cent per gallon shall apply to the sale, distribution, or use of motor vehicle fuel, and the proceeds from this additional tax rate, reduced by an amount equal to the sum of the payments under RCW 46.68.090 ~~((+ and (2)))~~ (1) (a) and (b) multiplied by the additional tax rate prescribed by this subsection divided by the motor vehicle fuel tax rate provided in this section, shall be deposited in the urban arterial trust account in the motor vehicle fund.

(4) An additional motor vehicle ~~((full [fuel]))~~ fuel tax rate of one-third cent per gallon shall be applied to the sale, distribution, or use of motor vehicle fuel, and the proceeds from this additional tax rate, reduced by an amount equal to the sum of the payments under RCW 46.68.090 ~~((+ and (2)))~~ (1) (a) and (b) multiplied by the additional tax rate prescribed by this subsection divided by the motor vehicle fuel tax rate provided in this section, shall be deposited in the motor vehicle fund to be expended for highway purposes of the state as defined in RCW 46.68.130.

(5) ~~((a) Before the start of each fiscal year, the department of licensing shall estimate the total aggregate motor vehicle fuel tax revenues and the total of all other revenues that will accrue to the motor vehicle fund during the fiscal year. The estimated total of all other state revenues to accrue to the motor vehicle fund during the fiscal year shall include those revenues (other than the aggregate motor vehicle fuel tax revenues) which the department of transportation with the concurrence of the office of financial management determines will accrue during the fiscal year, assuming~~

that collections of such revenues for the fiscal year shall be at the same level as during the fiscal year just ended, adjusted however for historic variations in collections according to yearly periods and for projected trends, but shall not include the proceeds of the sale of bonds, reimbursements to the motor vehicle fund for services performed by the department of transportation for others, moneys derived from nonfuel tax sources that are deposited directly in the several accounts within the motor vehicle fund, interest deposited directly in the several accounts within the motor vehicle fund, nor federal funds. The estimated total aggregate motor vehicle fuel tax revenues for the fiscal year shall include those revenues that the department of licensing determines will accrue during the fiscal year, assuming the sale, distribution, and use of motor vehicle fuel and special fuel within the state for the fiscal year will be at the same volume as during the fiscal year last ended, adjusted however for the historic variations in sales, distribution, and use according to yearly periods and for projected trends:

(b) If the estimated aggregate motor fuel tax revenues plus all other state revenues that will accrue to the motor vehicle fund during a fiscal year as computed in (a) of this subsection exceed the motor vehicle fund revenue limit in the fiscal year as computed in (c) of this subsection, the rate of motor fuel tax provided in subsection (1) of this section shall be reduced by one-half cent increments for the fiscal year only, commencing at the beginning of the fiscal year, as may be necessary to reduce the estimated total revenues for the fiscal year to within the motor vehicle fund revenue limit.

(c) The motor vehicle fund revenue limit for any fiscal year shall be the previous fiscal year's motor vehicle fund revenue limit multiplied by the average state personal income ratio for the three calendar years immediately preceding the beginning of the fiscal year for which the limit is being computed. For purposes of computing the motor vehicle fund revenue limit for the fiscal year ending June 30, 1981, the phrase "the previous fiscal year's motor vehicle fund revenue limit" means the motor vehicle fund revenue collected in the fiscal year ending June 30, 1979, multiplied by the average state personal income ratio for the calendar years 1976, 1977, and 1978.

(6) The legislative transportation committee shall study and analyze each biennium the financial condition of the motor vehicle fund and accounts thereof with particular emphasis on RCW 82.36.010 and 82.36.025.)) An additional motor vehicle fuel tax rate of four cents per gallon from April 1, 1990, through March 31, 1991, and five cents per gallon from April 1, 1991, applies to the sale, distribution, or use of motor vehicle fuel. The proceeds from the additional tax rate under this subsection, reduced by an amount equal to the sum of the payments under RCW 46.68.090 (1) (a) and (b) multiplied by the additional tax rate prescribed by this subsection

divided by the motor fuel tax rate provided in this section, shall be deposited in the motor vehicle fund and shall be distributed by the state treasurer according to section 103 of this act.

Sec. 102. DISTRIBUTION OF STATE-WIDE TAXES. Section 46.68.090, chapter 12, Laws of 1961 as last amended by section 21, chapter 49, Laws of 1983 1st ex. sess. and RCW 46.68.090 are each amended to read as follows:

(1) All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax shall be first expended for the following purposes:

~~((1))~~ (a) For payment of refunds of motor vehicle fuel tax and special fuel tax that has been paid and is refundable as provided by law;

~~((2))~~ (b) For payment of amounts to be expended pursuant to appropriations for the administrative expenses of the offices of state treasurer, state auditor, and the department of licensing of the state of Washington in the administration of the motor vehicle fuel tax and the special fuel tax, which sums shall be distributed monthly;

~~((3))~~ (c) For ~~((payments))~~ distribution to the rural arterial trust account in the motor vehicle fund, an amount as provided in RCW 82.36.025(2) and section 103(3) of this act;

~~((4))~~ (d) For ~~((payments))~~ distribution to the urban arterial trust account in the motor vehicle fund, an amount as provided in RCW 82.36.025(3); ~~((and~~

~~(5))~~ (e) For distribution to the transportation improvement account in the motor vehicle fund, an amount as provided in section 103(1) of this act;

(f) For distribution to the special category C account, hereby created in the motor vehicle fund, an amount as provided in section 103(2) of this act;

(g) For distribution to the county arterial preservation account, hereby created in the motor vehicle fund, an amount as provided in section 103(4) of this act;

(h) For distribution to the motor vehicle fund to be allocated to cities and towns as provided in RCW 46.68.110, an amount as provided in section 103(5) of this act;

(i) For distribution to the motor vehicle fund to be allocated to counties as provided in RCW 46.68.120, an amount as provided in section 103(6) of this act;

(j) For expenditure for highway purposes of the state as defined in RCW 46.68.130, an amount as provided in RCW 82.36.025(4) and section 103(7) of this act.

(2) The amount accruing to the motor vehicle fund by virtue of the motor vehicle fuel tax and the special fuel tax and remaining after payments, distributions, and expenditures as provided in ~~((subsections (1), (2);~~

~~(3), (4), and (5) of~~) this section shall, for the purposes of this chapter, be referred to as the "net tax amount."

NEW SECTION. Sec. 103. DISTRIBUTION OF ADDITIONAL STATE-WIDE TAXES. A new section is added to chapter 46.68 RCW to read as follows:

All moneys that have accrued or may accrue to the motor vehicle fund from the motor vehicle fuel tax and special fuel tax imposed by RCW 82.36.025(5) shall be distributed monthly by the state treasurer in the following proportions:

(1) One and one-half cents shall be deposited in the transportation improvement account and expended in accordance with RCW 47.26.084.

(2) From April 1, 1991, seventy-five one-hundredths of one cent shall be deposited in the special category C account in the motor vehicle fund for special category C projects. Special category C projects are category C projects as defined in RCW 47.05.030(3) that, due to high cost only, will require bond financing to complete construction.

The following criteria, listed in order of priority, shall be used in determining which special category C projects have the highest priority:

- (a) Accident experience; and
- (b) Fatal accident experience; and
- (c) Capacity to move people and goods safely and at reasonable speeds without undue congestion; and
- (d) Continuity of development of the highway transportation network.

Moneys deposited in the special category C account in the motor vehicle fund may be used for payment of debt service on bonds the proceeds of which are used to finance special category C projects under this subsection.

(3) Twenty-five one-hundredths of one cent shall be deposited in the rural arterial trust account in the motor vehicle fund.

(4) Forty-five one-hundredths of one cent shall be deposited in the county arterial preservation account. These funds shall be distributed by the county road administration board to counties in proportions corresponding to the number of paved arterial lane miles in the unincorporated area of each county and shall be used for improvements to sustain the structural, safety, and operational integrity of county arterials. The county road administration board shall adopt reasonable rules and develop policies to implement this program and to assure that a pavement management system is used.

(5) One-half of one cent shall be allocated to cities and towns as provided in RCW 46.68.110.

(6) From April 1, 1990, through March 31, 1991, thirty one-hundredths of one cent and after March 31, 1991, fifty-five one-hundredths of one cent shall be allocated to counties as provided in RCW 46.68.120.

(7) One cent shall be deposited in the motor vehicle fund and shall be expended for highway purposes of the state as defined in RCW 46.68.130.

Sec. 104. Section 14, chapter 49, Laws of 1983 1st ex. sess. as amended by section 1, chapter 113, Laws of 1984 and RCW 36.79.140 are each amended to read as follows:

At the time the board reviews the six-year program of each county each even-numbered year, it shall consider and shall approve for inclusion in its recommended budget, as required by RCW 36.79.130, the portion of the rural arterial construction program scheduled to be performed during the biennial period beginning the following July 1st. Subject to the appropriations actually approved by the legislature, the board shall as soon as feasible approve rural arterial trust account funds to be spent during the ensuing biennium for preliminary proposals in priority sequence as established pursuant to RCW 36.79.090. Only those counties that during the preceding twelve months have spent all revenues collected for road purposes only for such purposes, including traffic law enforcement, as are allowed to the state by Article II, section 40 of the state Constitution are eligible to receive funds from the rural arterial trust account: **PROVIDED HOWEVER, That counties of the seventh class are exempt from this eligibility restriction: AND PROVIDED FURTHER, That counties expending revenues collected for road purposes only on other governmental services after authorization from the voters of that county under RCW 84.55.050 are also exempt from this eligibility restriction.** The board shall authorize rural arterial trust account funds for the construction project portion of a project previously authorized for a preliminary proposal in the sequence in which the preliminary proposal has been completed and the construction project is to be placed under contract. At such time the board may reserve rural arterial trust account funds for expenditure in future years as may be necessary for completion of preliminary proposals and construction projects to be commenced in the ensuing biennium.

The board may, within the constraints of available rural arterial trust funds, consider additional projects for authorization upon a clear and conclusive showing by the submitting county that the proposed project is of an emergent nature and that its need was unable to be anticipated at the time the six-year program of the county was developed. The proposed projects shall be evaluated on the basis of the priority rating factors specified in RCW 36.79.080.

Sec. 105. LICENSE FEE ON TRUCKS, BUSES, AND FOR HIRE VEHICLES BASED ON GROSS WEIGHT. Section 1, chapter 156, Laws of 1989 and RCW 46.16.070 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 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:

4,000 lbs.	.....	\$	((28.75))	<u>37.00</u>
6,000 lbs.	.....	\$	((33.72))	<u>44.00</u>
8,000 lbs.	.....	\$	((41.30))	<u>55.00</u>
10,000 lbs.	.....	\$	((46.37))	<u>62.00</u>
12,000 lbs.	.....	\$	((53.62))	<u>72.00</u>
14,000 lbs.	.....	\$	((60.86))	<u>82.00</u>
16,000 lbs.	.....	\$	((68.31))	<u>92.00</u>
18,000 lbs.	.....	\$	((100.02))	<u>137.00</u>
20,000 lbs.	.....	\$	((110.94))	<u>152.00</u>
22,000 lbs.	.....	\$	((119.76))	<u>164.00</u>
24,000 lbs.	.....	\$	((128.95))	<u>177.00</u>
26,000 lbs.	.....	\$	((136.08))	<u>187.00</u>
28,000 lbs.	.....	\$	((159.66))	<u>220.00</u>
30,000 lbs.	.....	\$	((183.18))	<u>253.00</u>
32,000 lbs.	.....	\$	((219.78))	<u>304.00</u>
34,000 lbs.	.....	\$	((233.06))	<u>323.00</u>
36,000 lbs.	.....	\$	((252.39))	<u>350.00</u>
38,000 lbs.	.....	\$	((276.51))	<u>384.00</u>
40,000 lbs.	.....	\$	((315.99))	<u>439.00</u>
42,000 lbs.	.....	\$	((328.16))	<u>456.00</u>
44,000 lbs.	.....	\$	((335.02))	<u>466.00</u>
46,000 lbs.	.....	\$	((359.91))	<u>501.00</u>
48,000 lbs.	.....	\$	((375.19))	<u>522.00</u>
50,000 lbs.	.....	\$	((406.36))	<u>566.00</u>
52,000 lbs.	.....	\$	((427.45))	<u>595.00</u>
54,000 lbs.	.....	\$	((461.02))	<u>642.00</u>
56,000 lbs.	.....	\$	((486.21))	<u>677.00</u>
58,000 lbs.	.....	\$	((505.53))	<u>704.00</u>
60,000 lbs.	.....	\$	((538.29))	<u>750.00</u>
62,000 lbs.	.....	\$	((576.50))	<u>804.00</u>
64,000 lbs.	.....	\$	((589.75))	<u>822.00</u>
66,000 lbs.	.....	\$	((656.14))	<u>915.00</u>
68,000 lbs.	.....	\$	((683.99))	<u>954.00</u>
70,000 lbs.	.....	\$	((736.14))	<u>1,027.00</u>
72,000 lbs.	.....	\$	((786.36))	<u>1,098.00</u>
74,000 lbs.	.....	\$	((854.15))	<u>1,193.00</u>
76,000 lbs.	.....	\$	((923.05))	<u>1,289.00</u>
78,000 lbs.	.....	\$	((1,007.10))	<u>1,407.00</u>
80,000 lbs.	.....	\$	((1,086.95))	<u>1,518.00</u>

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

~~Effective with motor vehicle licenses that expire in January, 1989, and thereafter, a surcharge of four dollars and seventy-five cents is added to such fees. The proceeds of this surcharge shall be forwarded to the state treasurer to be deposited into the state patrol highway account of the motor vehicle fund:))~~

Every 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.

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. 106. Section 21, chapter 380, Laws of 1985 as amended by section 4, chapter 156, Laws of 1989 and RCW 46.68.035 are each amended to read as follows:

All proceeds from combined vehicle licensing fees received by the director for vehicles licensed under RCW 46.16.070 and 46.16.085 shall be forwarded to the state treasurer to be distributed into accounts according to the following method:

~~(1) ((34.644 percent, representing the vehicle licensing fee, shall be distributed according to the following formula))~~ The sum of two dollars for each vehicle shall be deposited into the highway safety fund, except that for each vehicle registered by a county auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund.

(2) The remainder shall be distributed as follows:

(a) ~~((76.772))~~ 25.862 percent shall be deposited into the state patrol highway account of the motor vehicle fund;

(b) ~~((6.348))~~ 1.661 percent shall be deposited into the Puget Sound ferry operations account of the motor vehicle fund; and

(c) ~~((16.880 percent shall be deposited into the motor vehicle fund:~~

~~(2) The sum of two dollars for each vehicle shall be deposited into the highway safety fund, except that for each vehicle registered by a county~~

auditor or agent to a county auditor pursuant to RCW 46.01.140, the sum of two dollars shall be credited to the current county expense fund:

(3)) The remaining proceeds(~~(, representing the gross vehicle weight fee, identification fee, special fee, minimum fee, and application fee,)~~) shall be deposited into the motor vehicle fund.

Sec. 107. SPECIAL PERMITS FOR OVERSIZE OR OVERWEIGHT MOVEMENTS—FEES. Section 2, chapter 137, Laws of 1965 as last amended by section 1, chapter 398, Laws of 1989 and RCW 46.44.0941 are each amended to read as follows:

The following fees, in addition to the regular license and tonnage fees, shall be paid for all movements under special permit made upon state highways. All funds collected, except the amount retained by authorized agents of the department as provided in RCW 46.44.096, shall be forwarded to the state treasury and shall be deposited in the motor vehicle fund:

All overlegal loads, except overweight, single trip	\$ 10.00
Continuous operation of overlegal loads having either overwidth or overheight features only, for a period not to exceed thirty days	\$ 20.00
Continuous operations of overlegal loads having overlength features only, for a period not to exceed thirty days	\$ 10.00
Continuous operation of a combination of vehicles having one trailing unit that exceeds forty-eight feet and is not more than fifty-six feet in length, for a period of one year	\$100.00
Continuous operation of a combination of vehicles having two trailing units which together exceed sixty feet and are not more than sixty-eight feet in length, for a period of one year	\$100.00
Continuous operation of a three-axle fixed load vehicle having less than 65,000 pounds gross weight, for a period not to exceed thirty days	\$ ((50.00)) <u>70.00</u>
Continuous operation of overlegal loads having nonreducible features not to exceed eighty-five feet in length and fourteen feet in width, for a period of one year	\$150.00

Continuous operation of farm implements under a permit issued as authorized by RCW 46.44.140 by:

- (1) Farmers in the course of farming activities, for any three-month period \$ 10.00
- (2) Farmers in the course of farming activities, for a period not to exceed one year \$ 25.00
- (3) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for any three-month period \$ 25.00
- (4) Persons engaged in the business of the sale, repair, or maintenance of such farm implements, for a period not to exceed one year \$100.00

Overweight Fee Schedule

Weight over total registered gross weight plus additional gross weight purchased under RCW 46.44.095 or 46.44.047, or any other statute authorizing the state department of transportation to issue annual overweight permits. Fee per mile on state highways

1- 5,999 pounds	\$ ((.05))	<u>.07</u>
6,000-11,999 pounds	\$ ((.10))	<u>.14</u>
12,000-17,999 pounds	\$ ((.15))	<u>.21</u>
18,000-23,999 pounds	\$ ((.25))	<u>.35</u>
24,000-29,999 pounds	\$ ((.35))	<u>.49</u>
30,000-35,999 pounds	\$ ((.45))	<u>.63</u>
36,000-41,999 pounds	\$ ((.60))	<u>.84</u>
42,000-47,999 pounds	\$ ((.75))	<u>1.05</u>
48,000-53,999 pounds	\$ ((.90))	<u>1.26</u>
54,000-59,999 pounds	\$ ((1.05))	<u>1.47</u>
60,000-65,999 pounds	\$ ((1.20))	<u>1.68</u>
66,000-71,999 pounds	\$ ((1.45))	<u>2.03</u>
72,000-79,999 pounds	\$ ((1.70))	<u>2.38</u>
80,000 pounds or more	\$ ((2.00))	<u>2.80</u>

PROVIDED: ((+)) (a) The minimum fee for any overweight permit shall be \$((+0.00)) 14.00, ((+)) (b) the fee for issuance of a duplicate permit shall be \$((+0.00)) 14.00, ((+)) (c) when computing overweight fees that result in an amount less than even dollars the fee shall be carried to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under.

Sec. 108. ANNUAL ADDITIONAL TONNAGE PERMITS—FEES. Section 46.44.095, chapter 12, Laws of 1961 as last amended by section 3, chapter 398, Laws of 1989 and RCW 46.44.095 are each amended to read as follows:

When a combination of vehicles has been lawfully licensed to a total gross weight of eighty thousand pounds and when a three or more axle single unit vehicle has been lawfully licensed to a total gross weight of forty thousand pounds pursuant to provisions of RCW 46.44.041, a permit for additional gross weight may be issued by the department of transportation upon the payment of ~~((thirty-seven dollars and fifty))~~ fifty-two dollars and fifty cents per year for each one thousand pounds or fraction thereof of such additional gross weight: PROVIDED, That the tire limits specified in RCW 46.44.042 shall apply, and the gross weight on any single axle shall not exceed twenty thousand pounds, and the gross load on any group of axles shall not exceed the limits set forth in RCW 46.44.041: PROVIDED FURTHER, That within the tire limits of RCW 46.44.042, and notwithstanding RCW 46.44.041 and 46.44.091, a permit for an additional six thousand pounds may be purchased for the rear axles of a two-axle garbage truck or eight thousand pounds for the tandem axle of a three axle garbage truck at a rate not to exceed ~~((thirty))~~ forty-two dollars per thousand. Such additional weight in the case of garbage trucks shall not be valid or permitted on any part of the federal interstate highway system.

The annual additional tonnage permits provided for in this section shall be issued upon such terms and conditions as may be prescribed by the department pursuant to general rules adopted by the transportation commission. Such permits shall entitle the permittee to carry such additional load in an amount and upon highways or sections of highways as may be determined by the department of transportation to be capable of withstanding increased gross load without undue injury to the highway: PROVIDED, That the permits ~~((shall))~~ are not ~~((be))~~ valid on any highway where the use of such permits would deprive this state of federal funds for highway purposes.

For those vehicles registered under chapter 46.87 RCW, the annual additional tonnage permits provided for in this section may be issued to coincide with the registration year of the base jurisdiction. For those vehicles registered under chapter 46.16 RCW and whose registration has staggered renewal dates, the annual additional tonnage permits may be issued to coincide with the expiration date of the registration. The permits may be purchased at any time, and if they are purchased for less than a full year, the fee shall be one-twelfth of the full fee multiplied by the number of months, including any fraction thereof, covered by the permit. When the department issues a duplicate permit to replace a lost or destroyed permit and where the department transfers a permit from one vehicle to another a fee of ~~((ten))~~ fourteen dollars shall be charged for each duplicate issued or each transfer.

The department of transportation shall issue permits on a temporary basis for periods not less than five days at two dollars and eighty cents per day for each two thousands pounds or fraction thereof.

The fees levied in RCW 46.44.0941 and this section shall not apply to any vehicles owned and operated by the state of Washington, any county within the state, or any city or town or metropolitan municipal corporation within the state, or by the federal government.

In the case of fleets prorating license fees under the provisions of chapter 46.87 RCW, the fees provided for in this section shall be computed by the department of transportation by applying the proportion of the Washington mileage of the fleet in question to the total mileage of the fleet as reported pursuant to chapter 46.87 RCW to the fees that would be required to purchase the additional weight allowance for all eligible vehicles or combinations of vehicles for which the extra weight allowance is requested.

When computing fees that result in an amount other than full dollars, the fee shall be increased to the next full dollar if fifty cents or over and shall be reduced to the next full dollar if forty-nine cents or under. The minimum fee for any prorated tonnage permit issued under this section shall be ~~((twenty-five))~~ thirty-five dollars.

Sec. 109. DISPOSITION OF VEHICLE LICENSE FEES. Section 20, chapter 380, Laws of 1985 and RCW 46.68.030 are each amended to read as follows:

Except for proceeds from fees for vehicle licensing for vehicles paying such fees under RCW 46.16.070 and 46.16.085, and as otherwise provided for in chapter 46.16 RCW, all fees received by the director for vehicle licenses under the provisions of chapter 46.16 RCW shall be forwarded to the state treasurer, accompanied by a proper identifying detailed report, and be ~~((by him))~~ deposited to the credit of the motor vehicle fund, except that the proceeds from the vehicle license fee and renewal license fee shall be deposited by the state treasurer as hereinafter provided. After July 1, 1981, that portion of each vehicle license fee in excess of \$7.40 and that portion of each renewal license fee in excess of \$3.40 shall be deposited in the state patrol highway account in the motor vehicle fund, hereby created. Vehicle license fees, renewal license fees, and all other funds in the state patrol highway account shall be for the sole use of the Washington state patrol for highway activities of the Washington state patrol, subject to proper appropriations and reappropriations therefor, for any fiscal biennium after June 30, 1981, and twenty-seven and three-tenths percent of the proceeds from \$7.40 of each vehicle license fee and \$3.40 of each renewal license fee shall be deposited each biennium in the Puget Sound ferry operations account ~~((to partially finance, together with other funds in the account, any budgeted state ferry system maintenance and operating deficit for that biennium. The deficit shall be calculated by subtracting from total costs the sum of all~~

~~unappropriated funds available to the state ferry system, including revenues from tolls that are adjusted by the transportation commission)).~~ Any remaining amounts of vehicle license fees and renewal license fees that are not deposited in the Puget Sound ferry operations account shall be deposited in the motor vehicle fund.

Sec. 110. NONRESIDENT EXEMPTION—RECIPROCITY. Section 46.16.030, chapter 12, Laws of 1961 as amended by section 15, chapter 32, Laws of 1967 and RCW 46.16.030 are each amended to read as follows:

Except as is herein provided for foreign (~~corporations~~) businesses, the provisions relative to the licensing of vehicles and display of vehicle license number plates and license registration certificates shall not apply to any vehicles owned by nonresidents of this state if the owner thereof has complied with the law requiring the licensing of vehicles in the names of the owners thereof in force in the state, foreign country, territory or federal district of his or her residence; and the vehicle license number plate showing the initial or abbreviation of the name of such state, foreign country, territory or federal district, is displayed on such vehicle substantially as is provided therefor in this state(~~(-PROVIDED, That)).~~ The provisions of this section shall be operative as to a vehicle owned by a nonresident of this state only to the extent that under the laws of the state, foreign country, territory or federal district of his or her residence, like exemptions and privileges are granted to vehicles duly licensed under the laws of and owned by residents of this state. If under the laws of such state, foreign country, territory or federal district, vehicles owned by residents of this state, operating upon the highways of such state, foreign country, territory or federal district, are required to pay the license fee and carry the vehicle license number plates of such state, foreign country, territory or federal district, the vehicles owned by residents of such state, foreign country, territory or federal district, and operating upon the highways of this state, shall comply with the provisions of this state relating to the licensing of vehicles. Foreign (~~corporations~~) businesses owning, maintaining, or operating places of business in this state and using vehicles in connection with such places of business, shall comply with the provisions relating to the licensing of vehicles insofar as vehicles used in connection with such places of business are concerned(~~(-PROVIDED; FURTHER, That)).~~ Under provisions of the international registration plan, the nonmotor vehicles of member and nonmember jurisdictions which are properly based and licensed in such jurisdictions are granted reciprocity in this state as provided in RCW 46.87.070(2). Converter gears (auxiliary axles) that are properly based in jurisdictions that do not register or provide license plates for such vehicles may be operated in this state without the

need for registration or the display of license plates as applicable. The director is empowered to make and enforce rules and regulations for the licensing of nonresident vehicles upon a reciprocal basis and with respect to any character or class of operation.

Sec. 111. DEFINITIONS. Section 2, chapter 380, Laws of 1985 as amended by section 16, chapter 244, Laws of 1987 and RCW 46.87.020 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, ((converter gears (auxiliary axles), trailers, semitrailers, and pole trailers,)) each as separate and licensable vehicles. For IRP jurisdictions that require the registration of nonmotor vehicles, this term may include converter gears (auxiliary axles), 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, converter gear (auxiliary axle), or semitrailer used in combination when the gross weight or declared gross weight of the combination exceeds twenty-six thousand pounds combined gross weight((~~or~~

(d) Is a converter gear (auxiliary axle)). 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, converter gear (auxiliary axle), or any combination of such vehicles with ((a)) 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(;;). Converter gears (auxiliary axles), trailers, pole trailers, and semitrailers, ((each as separate and licensable vehicles)) 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 county, 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 immediately prior to July 1st of the year immediately preceding the commencement of the registration or license 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 prorated 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. The "registration year" for Washington is the period from January 1st through December 31st of each calendar year.

(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. 112. REGISTRATION OF TRAILERS, SEMITRAILERS, POLETRAILERS, AND CONVERTER GEARS. Section 7, chapter 380, Laws of 1985 as amended by section 22, chapter 244, Laws of 1987 and RCW 46.87.070 are each amended to read as follows:

~~(Any trailer, semitrailer, converter gear (auxiliary axles), or pole trailer being pulled by a motor vehicle that is proportionally registered under the terms of this chapter shall display a valid vehicle license plate issued by the base jurisdiction and be registered in this state.)~~ (1) Washington-based trailers, semitrailers, converter gears (auxiliary axles), or pole trailers shall be fully licensed in this state except as herein provided. If these vehicles are being operated in jurisdictions that require the registration of such vehicles, the applicable vehicles may be considered as apportionable or commercial vehicles for the purpose of registration in those jurisdictions. The prorate percentage for which registration fees and taxes were paid to such jurisdictions for each nonmotor vehicle of the fleet may be credited toward the one hundred percent of registration fees and taxes due this state for full licensing of each such vehicle.

(2) Trailers, semitrailers, converter gears (auxiliary axles), and pole trailers which are properly based in jurisdictions other than Washington, and which display currently registered license plates from such jurisdictions will be granted vehicle license reciprocity in this state without the need of further vehicle license registration. If converter gears (auxiliary axles) or pole trailers are not required to be licensed separately by a member jurisdiction, such vehicles may be operated in this state without displaying a current base license plate.

Sec. 113. MILEAGE DATA FOR APPLICATIONS—NONMOTOR VEHICLES. Section 25, chapter 244, Laws of 1987 and RCW 46.87.120 are each amended to read as follows:

(1) The initial application for proportional registration of a fleet shall state the mileage data with respect to the fleet for the preceding year in this and other jurisdictions. If no operations were conducted with the fleet during the preceding year, the application shall contain a full statement of the proposed method of operation and estimates of annual mileage in each of the jurisdictions in which operation is contemplated. The registrant shall determine the in-jurisdiction and total miles to be used in computing the fees and taxes due for the fleet. The department may evaluate and adjust the estimate in the application if it is not satisfied as to its correctness.

(2) ~~((When the nonmotor vehicles of a fleet are operated in jurisdictions in addition to those in which the motor vehicles of the fleet are operated, or when the nonmotor vehicles of a fleet are operated with motor vehicles that are not part of the fleet, the registrant shall place such nonmotor vehicles in a separate fleet))~~ Fleets will consist of either motor vehicles or nonmotor vehicles, but not a mixture of both.

(3) In instances where the use of mileage accumulated by a nonmotor vehicle fleet is impractical, for the purpose of calculating prorate percentages, the registrant may request another method and/or unit of measure to be used in determining the prorate percentages. Upon receiving such request, the department may prescribe another method and/or unit of measure to be used in lieu of mileage that will ensure each jurisdiction that requires the registration of nonmotor vehicles its fair share of vehicle licensing fees and taxes.

(4) When operations of a Washington-based fleet is materially changed through merger, acquisition, or extended authority, the registrant shall notify the department, which shall then require the filing of an amended application setting forth the proposed operation by use of estimated mileage for all jurisdictions. The department may adjust the estimated mileage by audit or otherwise to an actual travel basis to insure proper fee payment. The actual travel basis may be used for determination of fee payments until such time as a normal mileage year is available under the new operation. Under the provisions of the Western Compact, this subsection applies to any fleet proportionally registered in Washington irrespective of the fleet's base jurisdiction.

Sec. 114. APPLICATION—FILING, CONTENTS—FEES AND TAXES—ASSESSMENTS, DUE DATE. Section 27, chapter 244, Laws of 1987 and RCW 46.87.140 are each amended to read as follows:

(1) Any owner engaged in interstate operations of one or more fleets of apportionable or commercial vehicles may, in lieu of registration of the vehicles under chapter 46.16 RCW, register and license the vehicles of each fleet under this chapter by filing a proportional registration application for each fleet with the department. The nonmotor vehicles of Washington-based fleets which are operated in IRP jurisdictions that require registration of such vehicles may be proportionally registered for operation in those jurisdictions as herein provided. The application shall contain the following information and such other information pertinent to vehicle registration as the department may require:

(a) A description and identification of each vehicle of the fleet. ~~((If the fleet contains both power units and nonpower units, the power units shall be listed first on the application, followed by the nonpower units. However, if the nonpower units are occasionally pulled by power units which are not~~

~~part of this fleet, the))~~ Motor vehicles and nonpower units shall be placed in ~~((a))~~ separate fleets.

(b) If registering under the provisions of the IRP, the registrant shall also indicate member jurisdictions in which registration is desired and furnish such other information as those member jurisdictions require.

(c) An original or renewal application shall also be accompanied by a mileage schedule for each fleet.

(2) Each application shall, at the time and in the manner required by the department, be supported by payment of a fee computed as follows:

(a) Divide the in-jurisdiction miles by the total miles and carry the answer to the nearest thousandth of a percent (three places beyond the decimal, e.g. 10.543%). This factor is known as the prorate percentage.

(b) Determine the total proratable fees and taxes required for each vehicle in the fleet for which registration is requested, based on the regular annual fees and taxes or applicable fees and taxes for the unexpired portion of the registration year under the laws of each jurisdiction for which fees or taxes are to be calculated.

Washington-based nonpower vehicles shall normally be fully licensed, by paying full registration fees and taxes, in this state. If these vehicles are being operated in jurisdictions that require the registration of such vehicles, the applicable vehicles may be considered as apportionable vehicles for the purpose of registration in those jurisdictions. The prorate percentage for which registration fees and taxes were paid to such jurisdictions may be credited toward the one hundred percent of registration fees and taxes due this state for full licensing. Applicable fees and taxes for vehicles of Washington-based fleets are those prescribed under RCW 46.16.070, 46.16.085, 82.38.075, and 82.44.020, as applicable.

(c) Multiply the total, proratable fees or taxes for each vehicle by the prorate percentage applicable to the desired jurisdiction and round the results to the nearest cent.

(d) Add the total fees and taxes determined in subsection (2)(c) of this section for each vehicle to the nonproratable fees required under the laws of the jurisdiction for which fees are being calculated. Nonproratable fees required for vehicles of Washington-based fleets are the administrative fee required by RCW 82.38.075, if applicable, and the vehicle transaction fee pursuant to the provisions of RCW 46.87.130.

(e) Add the total fees and taxes determined in subsection (2)(d) of this section for each vehicle listed on the application. Assuming the fees and taxes calculated were for Washington, this would be the amount due and payable for the application under the provisions of the Western Compact. Under the provisions of the IRP, the amount due and payable for the application would be the sum of the fees and taxes referred to in subsection (2)(d) of this section, calculated for each member jurisdiction in which registration of the fleet is desired.

(3) All assessments for proportional registration fees are due and payable in United States funds on the date presented or mailed to the registrant at the address listed in the proportional registration records of the department. The registrant may petition for reassessment of the fees or taxes due under this section within thirty days of the date of original service as provided for in this chapter.

Sec. 115. Section 22, chapter 47, Laws of 1971 ex. sess. as last amended by section 25, chapter 36, Laws of 1988 and RCW 46.09.170 are each amended to read as follows:

(1) From time to time, but at least once each year, the state treasurer shall refund from the motor vehicle fund one percent of the motor vehicle fuel tax revenues collected under chapter 82.36 RCW, 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 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. 116. Section 7, chapter 5, Laws of 1965 as amended by section 111, chapter 158, Laws of 1979 and RCW 43.99.070 are each amended to read as follows:

Upon expiration of the time limited by RCW 82.36.330 for claiming of refunds of tax on marine fuel, the state of Washington shall succeed to the right to such refunds. From time to time, but at least once each biennium, the director of licensing, after taking into account past and anticipated claims for refunds from and deposits to the marine fuel tax refund account and the costs of carrying out the provisions of RCW 43.99.030, shall request the state treasurer to transfer ~~((to the outdoor recreation account such of the moneys in the marine fuel tax refund account as shall not be required for payment of such refund claims or costs, and the state treasurer shall make such transfer))~~ an amount equal to the proportion of the moneys in the account representing the motor vehicle fuel tax rate under RCW 82.36-.025 in effect on January 1, 1990, to the outdoor recreation account and the remainder to the motor vehicle fund.

Sec. 117. Section 17, chapter 29, Laws of 1971 ex. sess. as amended by section 13, chapter 182, Laws of 1979 ex. sess. and RCW 46.10.170 are each amended to read as follows:

From time~~(;)~~ to time, but at least once each ~~((four years))~~ biennium, 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 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))~~ biennium 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.

PART II: LOCAL OPTION FUNDING AUTHORITY

NEW SECTION. Sec. 201. LOCAL OPTION MOTOR VEHICLE AND SPECIAL FUEL TAX. (1) Subject to the conditions of this section, any county may levy, by approval of its legislative body and a majority of the registered voters of the county voting on the proposition at a general or special election, additional excise taxes equal to ten percent of the state-wide motor vehicle fuel tax rate under RCW 82.36.025 on each gallon of motor vehicle fuel as defined in RCW 82.36.010(2) and on special fuel as defined in RCW 82.38.020(5), per gallon or one hundred cubic feet of compressed natural gas measured at standard temperature and pressure sold within the boundaries of the county. An election held under this section must be held not more than twelve months before the date on which the proposed tax is to be levied. The ballot setting forth the proposition shall state the tax rate that is proposed. The county's authority to levy additional excise taxes under this section includes the incorporated and unincorporated areas of the county. The additional excise taxes are subject to the same exceptions and rights of refund as applicable to other motor vehicle fuel and special fuel excise taxes levied under chapters 82.36 and 82.38 RCW. The proposed tax shall not be levied less than one month from the date the election results are certified by the county election officer. The commencement date for the levy of any tax under this section shall be the first day of January, April, July, or October.

(2) Every person subject to the tax shall pay, in addition to any other taxes provided by law, an additional excise tax to the director of licensing at the rate levied by a county exercising its authority under this section.

(3) The state treasurer shall distribute monthly to the levying county and cities contained therein the proceeds of the additional excise taxes collected under this section, after the deductions for payments and expenditures as provided in RCW 46.68.090 (1) (a) and (b) and under the conditions and limitations provided in section 213 of this act.

(4) The proceeds of the additional excise taxes levied under this section shall be used strictly for transportation purposes in accordance with section 212 of this act.

Sec. 202. REPORTS BY DISTRIBUTORS. Section 82.36.030, chapter 15, Laws of 1961 as amended by section 2, chapter 174, Laws of 1987 and RCW 82.36.030 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 director, 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 section 201 of this act, showing the total number of gallons of motor vehicle fuel distributed and sold to dealers by the distributor for sale within the boundaries of the county during the preceding calendar month.

If any distributor fails to file such report, the director 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 director shall immediately assess the excise tax in the amount so determined, adding thereto a penalty of ten percent for failure to report. Such penalty shall be cumulative of other penalties herein provided. All statements filed with the director, 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. 203. Section 16, chapter 175, Laws of 1971 ex. sess. as last amended by section 1, chapter 23, Laws of 1988 and RCW 82.38.150 are each amended to read as follows:

For the purpose of determining the amount of ((his)) liability for the tax herein imposed each special fuel dealer and each special fuel user shall file tax reports with the department, on forms prescribed by the department. Special fuel dealers shall file the reports at the intervals as shown in the following schedule:

Estimated Yearly Tax Liability	Reporting Frequency
\$ 0 - \$100	Yearly
\$101 - 250	Semi-yearly
\$251 - 499	Quarterly
\$500 and over	Monthly

Special fuel users whose estimated yearly tax liability is two hundred fifty dollars or less, shall file a report yearly, and special fuel users whose estimated yearly tax liability is more than two hundred fifty dollars, shall file reports quarterly.

The department shall establish the reporting frequency for each applicant at the time the special fuel license is issued. If it becomes apparent that any special fuel licensee is not reporting in accordance with the above schedule, the department shall change the licensee's reporting frequency by giving thirty days' notice to the licensee by mail to his address of record. A report shall be filed with the department even though no special fuel was used, or tax is due, for the reporting period. Each tax report shall contain a

declaration by the person making the same, to the effect that the statements contained therein are true and are made under penalties of perjury, which declaration shall have the same force and effect as a verification of the report and ~~((shall be))~~ is in lieu of such verification. The report shall show such information as the department may reasonably require for the proper administration and enforcement of this chapter: PROVIDED, That if a special fuel dealer or special fuel user is also a special fuel supplier at a location where special fuel is delivered into the supply tank of a motor vehicle, and if separate storage is provided thereat from which special fuel is delivered or placed into fuel supply tanks of motor vehicles, the tax report to the department need not include inventory control data covering bulk storage from which wholesale distribution of special fuel is made. For counties within which an additional excise tax on special fuel has been levied by that jurisdiction under section 201 of this act, the report must show the quantities of special fuel distributed and sold by the reporting dealer or user within the county's boundaries and the tax liability from its levy. The special fuel dealer or special fuel user shall file the report on or before the twenty-fifth day of the next succeeding calendar month following the period to which it relates.

Subject to the written approval of the department, tax reports may cover a period ending on a day other than the last day of the calendar month. Taxpayers granted approval to file reports in this manner will file such reports on or before the twenty-fifth day following the end of the reporting period. No change to this reporting period will be made without the written authorization of the department.

If the final filing date falls on a Saturday, Sunday, or legal holiday the next secular or business day shall be the final filing date. Such reports shall be considered filed or received on the date shown by the post office cancellation mark stamped upon an envelope containing such report properly addressed to the department, or on the date it was mailed if proof satisfactory to the department is available to establish the date it was mailed.

The department, if it deems it necessary in order to insure payment of the tax imposed by this chapter, or to facilitate the administration of this chapter, ~~((shall have))~~ has the authority to require the filing of reports and tax remittances at shorter intervals than one month if, in its opinion, an existing bond has become insufficient.

The department may permit any special fuel user whose sole use of special fuel is in motor vehicles or equipment exempt from tax as provided in RCW 82.38.075 and RCW 82.38.080 (1), (2), (3), (8), and (9), in lieu of the reports required in this section, to submit reports annually or as requested by the department, in such form as the department may require.

A special fuel user whose sole use of special fuel is for purposes other than the propulsion of motor vehicles upon the public highways of this state shall not be required to submit the reports required in this section.

Sec. 204. Section 82.36.440, chapter 15, Laws of 1961 as amended by section 5, chapter 181, Laws of 1979 ex. sess. and RCW 82.36.440 are each amended to read as follows:

The tax ((herein)) levied in this chapter is in lieu of any excise, privilege, or occupational tax upon the business of manufacturing, selling, or distributing motor vehicle fuel, and no city, town, county, township or other subdivision or municipal corporation of the state shall levy or collect any excise tax upon or measured by the sale, receipt, distribution, or use of motor vehicle fuel(~~(- PROVIDED, That nothing in this section or chapter 82.36 RCW shall be construed to prohibit in any manner the imposition of a city tax upon motor vehicle fuel pursuant to RCW 82.39.010))~~), except as provided in section 201 of this act.

Sec. 205. Section 29, chapter 175, Laws of 1971 ex. sess. as amended by section 6, chapter 181, Laws of 1979 ex. sess. and RCW 82.38.280 are each amended to read as follows:

The tax ((herein)) levied in this chapter is in lieu of any excise, privilege, or occupational tax upon the business of manufacturing, selling, or distributing special fuel, and no city, town, county, township or other subdivision or municipal corporation of the state shall levy or collect any excise tax upon or measured by the sale, receipt, distribution, or use of special fuel(~~(- PROVIDED, That nothing in this section or chapter 82.38 RCW shall be construed to prohibit in any manner the imposition of a city tax upon special fuel pursuant to RCW 82.39.010))~~), except as provided in section 201 of this act.

NEW SECTION. Sec. 206. LOCAL OPTION VEHICLE LICENSE FEE. (1) The legislative authority of a county may fix and impose an additional fee, not to exceed fifteen dollars per vehicle, for each vehicle that is subject to license fees under RCW 46.16.060 and is determined by the department of licensing to be registered within the boundaries of the county.

(2) The department of licensing shall administer and collect the fee. The department shall deduct a percentage amount, as provided by contract, not to exceed two percent of the taxes collected, for administration and collection expenses incurred by it. The remaining proceeds shall be remitted to the custody of the state treasurer for monthly distribution under section 213 of this act.

(3) The proceeds of this fee shall be used strictly for transportation purposes in accordance with section 212 of this act.

(4) A county imposing this fee shall delay the effective date at least six months from the date the ordinance is enacted to allow the department of licensing to implement administration and collection of the fee.

Sec. 207. **STATE PREEMPTS LICENSING FIELD.** Section 46.08.010, chapter 12, Laws of 1961 and RCW 46.08.010 are each amended to read as follows:

The provisions of this title relating to the certificate of ownership, certificate of license registration, vehicle license, vehicle license plates and vehicle operator's license shall be exclusive and no political subdivision of the state of Washington shall require or issue any licenses or certificates for the same or a similar purpose except as provided in section 206 of this act, nor shall any city or town in this state impose a tax, license, or other fee upon vehicles operating exclusively between points outside of such city or town limits, and to points therein.

NEW SECTION. Sec. 208. **LOCAL OPTION COMMERCIAL PARKING TAX.** (1) Subject to the conditions of this section, the legislative authority of a county or city may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city includes only the area within its incorporated boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city or a county in its unincorporated area may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city or county may provide that:

- (a) The tax is paid by the operator or owner of the motor vehicle;
- (b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;
- (c) The tax is collected by the operator of the facility and remitted to the city or county;
- (d) The tax is a fee per vehicle or is measured by the parking charge;
- (e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and
- (f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county or city levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed under subsection (1) or (2) of this section shall be used strictly for transportation purposes in accordance with section 212 of this act.

NEW SECTION. Sec. 209. LOCAL OPTION STREET UTILITY. A city or town may elect by action of its legislative authority to own, maintain, operate, and preserve all or any described portion of its streets as a separate enterprise and facility, known as a street utility, and from time to time add other existing or new streets to that street utility, with full power to own, maintain, operate, and preserve. The legislative authority of the city or town may include as a part of the street utility, street lighting, traffic control devices, sidewalks, curbs, gutters, parking facilities, and drainage facilities. The legislative authority of the city or town is the governing body of the street utility.

NEW SECTION. Sec. 210. RATES CHARGED BY STREET UTILITY. A city or town electing to own, maintain, operate, and preserve its streets as a separate street utility may levy periodic charges for the use or availability of the streets in order to meet up to fifty percent of the actual costs for maintenance, operation, and preservation of facilities under the jurisdiction of the street utility. The rates charged for the use must be uniform for the same class of service and all classes of service must be subject to the utility charge. Charges imposed on businesses shall be measured solely by the number of employees and shall not exceed the equivalent of two dollars per full-time equivalent employee per month. Charges imposed against owners or occupants of residential property shall not exceed two dollars per month per housing unit as defined in RCW 35.95.040. Charges against owners of property that is exempt from property tax under chapter 84.36 RCW or leasehold tax under chapter 82.29A RCW shall be based solely on the number of employees of the tax exempt body associated with the property. Provided that in recognition of the benefits accruing to the city or town from the service provided by such tax exempt entities, the charges authorized herein shall be paid by the city or town. The charges shall not be computed on the basis of an ad valorem charge on the underlying real property and improvements. This section shall not be used as a basis to directly or indirectly charge transportation impact fees or mitigation fees of any kind against new development. A city or town may contract with any other utility or local government to provide for billing and collection of the street utility charges.

Any city or town ordinance or resolution creating a street utility must contain a provision granting to any business a credit against any street utility charge the full amount of any commuter or employer tax paid for transportation purposes by that business.

NEW SECTION. Sec. 211. **USE OF OTHER PROCEEDS BY UTILITY.** The city or town electing to own, maintain, operate, and preserve its streets and related facilities as a utility under this chapter may finance the operation, maintenance, and preservation through local improvement districts, utility local improvement districts, or with proceeds from general obligation bonds and revenue bonds payable from the charges issued in accordance with chapter 35.41 or 35.92 RCW, or any combination thereof. The city or town may use, in addition to the charges authorized by section 210 of this act, funds from general taxation, money received from the federal, state, or other local governments, and other funds made available to it. The proceeds of the charges authorized by section 210 of this act shall be used strictly for transportation purposes in accordance with this chapter and section 212 of this act.

NEW SECTION. Sec. 212. **USE OF LOCAL OPTION REVENUES.** (1) The proceeds collected pursuant to the exercise of the local option authority of sections 201, 206, 208, and 210 of this act (hereafter called "local option transportation revenues") shall be used for transportation purposes only, including but not limited to the following: The operation and preservation of roads, streets, and other transportation improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high-capacity transit improvements and programs; and planning, design, and acquisition of right of way and sites for such transportation purposes. The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under section 201 of this act shall be used exclusively for "highway purposes" as that term is construed in Article II, section 40 of the state Constitution.

(2) The local option transportation revenues shall be expended for transportation uses consistent with the adopted transportation and land use plans of the jurisdiction expending the funds and consistent with any applicable and adopted regional transportation plan for metropolitan planning areas.

(3) Each local government with a population greater than eight thousand that levies or expends local option transportation funds, is also required to develop and adopt a specific transportation program that contains the following elements:

(a) The program shall identify the geographic boundaries of the entire area or areas within which local option transportation revenues will be levied and expended.

(b) The program shall be based on an adopted transportation plan for the geographic areas covered and shall identify the proposed operation and construction of transportation improvements and services in the designated

plan area intended to be funded in whole or in part by local option transportation revenues and shall identify the annual costs applicable to the program.

(c) The program shall indicate how the local transportation plan is coordinated with applicable transportation plans for the region and for adjacent jurisdictions.

(d) The program shall include at least a six-year funding plan, updated annually, identifying the specific public and private sources and amounts of revenue necessary to fund the program. The program shall include a proposed schedule for construction of projects and expenditure of revenues. The funding plan shall consider the additional local tax revenue estimated to be generated by new development within the plan area if all or a portion of the additional revenue is proposed to be earmarked as future appropriations for transportation improvements in the program.

(4) Local governments with a population greater than eight thousand exercising the authority for local option transportation funds shall periodically review and update their transportation program to ensure that it is consistent with applicable local and regional transportation and land use plans and within the means of estimated public and private revenue available.

(5) In the case of expenditure for new or expanded transportation facilities, improvements, and services, priorities in the use of local option transportation revenues shall be identified in the transportation program and expenditures shall be made based upon the following criteria, which are stated in descending order of weight to be attributed:

(a) First, the project serves a multijurisdictional function;

(b) Second, it is necessitated by existing or reasonably foreseeable congestion;

(c) Third, it has the greatest person-carrying capacity;

(d) Fourth, it is partially funded by other government funds, such as from the state transportation improvement board, or by private sector contributions, such as those from the local transportation act, chapter 39.92 RCW; and

(e) Fifth, it meets such other criteria as the local government determines is appropriate.

(6) It is the intent of the legislature that as a condition of levying, receiving, and expending local option transportation revenues, no local government agency use the revenues to replace, divert, or loan any revenues currently being used for transportation purposes to nontransportation purposes. The association of Washington cities and the Washington state association of counties, in consultation with the legislative transportation committee, shall study the issue of nondiversion and make recommendations to the legislative transportation committee for language implementing the intent of this section by December 1, 1990.

(7) Local governments are encouraged to enter into interlocal agreements to jointly develop and adopt with other local governments the transportation programs required by this section for the purpose of accomplishing regional transportation planning and development.

(8) Local governments may use all or a part of the local option transportation revenues for the amortization of local government general obligation and revenue bonds issued for transportation purposes consistent with the requirements of this section.

NEW SECTION. Sec. 213. **DISTRIBUTION OF LOCAL OPTION TAXES.** The state treasurer shall distribute revenues, less authorized deductions, generated by the local option taxes authorized in sections 201 and 206 of this act, levied by counties to the levying counties, and cities contained in those counties, based on the relative per capita population. County population for purposes of this section is equal to one and one-half of the unincorporated population of the county. In calculating the distributions, the state treasurer shall use the population estimates prepared by the state office of financial management and shall further calculate the distribution based on information supplied by the departments of licensing and revenue, as appropriate.

NEW SECTION. Sec. 214. **LOCAL OPTION REFERENDUM.** A referendum petition to repeal a county or city ordinance imposing a tax or fee authorized under sections 206 and 208 of this act must be filed with a filing officer, as identified in the ordinance, within seven days of passage of the ordinance. Within ten days, the filing officer shall confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure results in the tax or fee being imposed and a negative answer to the question and a negative vote on the measure results in the tax or fee not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After this notification, the petitioner has thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the county for county measures, or not less than fifteen percent of the registered voters of the city for city measures, and to file the signed petitions with the filing officer. Each petition form must contain the ballot title and the full text of the measure to be referred. The filing officer shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the filing officer shall submit the referendum measure to the county or city voters at a general or special election held on one of the dates provided in RCW 29.13.010 as determined by the county or city legislative authority, which election shall not take

place later than one hundred twenty days after the signed petition has been filed with the filing officer.

The referendum procedure provided in this section is the exclusive method for subjecting any county or city ordinance imposing a tax or fee under sections 206 and 208 of this act to a referendum vote.

PART III: MOTOR VEHICLE EXCISE TAX

Sec. 301. Section 82.44.010, chapter 15, Laws of 1961 as last amended by section 10, chapter 107, Laws of 1979 and RCW 82.44.010 are each amended to read as follows:

For the purposes of this chapter, unless context otherwise requires:

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

(2) "Motor vehicle" means all motor vehicles, trailers and semitrailers used, or of the type designed primarily to be used, upon the public streets and highways, for the convenience or pleasure of the owner, or for the conveyance, for hire or otherwise, of persons or property, including fixed loads and facilities for human habitation; but shall not include ~~((†))~~ (a) vehicles carrying exempt licenses, ~~((‡))~~ (b) dock and warehouse tractors and their cars or trailers, lumber carriers of the type known as spiders, and all other automotive equipment not designed primarily for use upon public streets, or highways, ~~((‡))~~ (c) motor vehicles or their trailers used entirely upon private property, ~~((†))~~ (d) mobile homes and travel trailers as defined in RCW 82.50.010, or ~~((‡))~~ (e) motor vehicles owned by nonresident military personnel of the armed forces of the United States stationed in the state of Washington provided personnel were also nonresident at the time of their entry into military service.

(3) "Truck-type power or trailing unit" means any vehicle that is subject to the fees under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

Sec. 302. Section 1, chapter 191, Laws of 1988 and RCW 82.44.020 are each amended to read as follows:

(1) An excise tax is imposed for the privilege of using in the state any motor vehicle, except those operated under reciprocal agreements, the provisions of RCW 46.16.160 as now or hereafter amended, or dealer's licenses. The annual amount of such excise tax shall be two percent of the ~~((fair market))~~ value of such vehicle.

(2) An additional excise tax is imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise shall be two-tenths of one percent of the ~~((fair market))~~ value of such vehicle.

(3) ~~((Effective with January, 1989, motor vehicle license expirations, and ending after December, 1991, expirations, an additional excise tax is~~

~~imposed, in addition to any other tax imposed by this section, for the privilege of using in the state any such motor vehicle, and the annual amount of such additional excise tax shall be one-tenth of one percent of the fair market value of such vehicle.~~

~~(4) The department of licensing and county auditors shall collect the additional tax imposed by subsections (2) and (3) of this section for any registration year for the months of that registration year in which such additional tax is effective, and in the same manner and at the same time as the tax imposed by subsection (1) of this section.~~

~~(5)) In no case shall the total tax be less than two dollars except for proportionally registered vehicles.~~

~~((6) An additional tax is imposed equal to the taxes payable under subsections (1) and (2) of this section multiplied by the rate specified in RCW 82.02.030.~~

~~(7)) (4) Washington residents, as defined in RCW 46.16.028, who license motor vehicles in another state or foreign country and avoid Washington motor vehicle excise taxes are liable for such unpaid excise taxes. The department of revenue may assess and collect the unpaid excise taxes under chapter 82.32 RCW, including the penalties and interest provided therein.~~

NEW SECTION. Sec. 303. A new section is added to chapter 82.44 RCW to read as follows:

(1) For the purpose of determining the tax under this chapter, the value of a truck-type power or trailing unit shall be the latest purchase price of the vehicle, excluding applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the following percentage based on year of service of the vehicle since last sale. The latest purchase year shall be considered the first year of service.

<u>YEAR OF SERVICE</u>	<u>PERCENTAGE</u>
1	100
2	90
3	83
4	75
5	67
6	59
7	52
8	44
9	36
10	28
11	21
12	13
13 or older	10

(2) The reissuance of title and registration for a truck-type power or trailing unit because of the installation of body or special equipment shall be treated as a sale, and the value of the truck-type power or trailing unit at that time, as determined by the department from such information as may be available, shall be considered the latest purchase price.

(3) For the purpose of determining the tax under this chapter, the value of a motor vehicle other than a truck-type power or trailing unit shall be the manufacturer's base suggested retail price of the vehicle when first offered for sale as a new vehicle, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this subsection based on year of service of the vehicle.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(a) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the vehicle. The department may use an appraisal by the county assessor. In valuing a vehicle for which the current value or selling price is not indicative of the value of similar vehicles of the same year and model, the department shall establish a value that more closely represents the average value of similar vehicles of the same year and model.

(b) The value determined in (a) of this subsection shall be divided by the applicable percentage listed in this subsection to establish a value equivalent to a manufacturer's base suggested retail price. The applicable percentage shall be based on the year of service of the vehicle for which the value is determined.

<u>YEAR OF SERVICE</u>	<u>PERCENTAGE</u>
1	100
2	100
3	91
4	83
5	74
6	65
7	57
8	48
9	40
10	31
11	22
12	14
13 or older	10

(4) For purposes of this chapter, value shall exclude value attributable to modifications of a motor vehicle and equipment that are designed to facilitate the use or operation of the motor vehicle by a handicapped person.

Sec. 304. Section 82.44.060, chapter 15, Laws of 1961 as last amended by section 12, chapter 222, Laws of 1981 and RCW 82.44.060 are each amended to read as follows:

The excise tax hereby imposed shall be due and payable to the department (~~(of licensing)~~) or its agents at the time of registration of a motor vehicle. Whenever an application is made to the department (~~(of licensing)~~) or its agents for a license for a motor vehicle there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter (~~((prorated to comply with the effective date of the annual schedule prepared pursuant to RCW 82.44.040))~~), and no dealer's license or license plates, and no license or license plates for a motor vehicle shall be issued unless such tax is paid in full. The excise tax hereby imposed shall be collected for each registration year (~~((: PROVIDED; That))~~). The excise tax upon a motor vehicle licensed for the first time in this state ((after the last day of any registration month)) shall ((only)) be levied for ((the remaining months of the registration year including the month in which the motor vehicle is being licensed)) one full registration year commencing on the date of the calendar year designated by the department and ending on the same date of the next succeeding calendar year. For vehicles registered under chapter 46.87 RCW, proportional registration, and for vehicle dealer plates issued under chapter 46.70 RCW, the registration year is the period provided in those chapters: PROVIDED ((FURTHER)), That the tax shall in no case be less than two dollars except for proportionally registered vehicles.

A motor vehicle shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year immediately preceding the registration year in which the application for license is made or when the vehicle has been registered in another jurisdiction subsequent to any prior registration in this state.

No additional tax shall be imposed under this chapter upon any vehicle upon the transfer of ownership thereof if the tax imposed with respect to such vehicle has already been paid for the registration year or fraction of a registration year in which transfer of ownership occurs.

NEW SECTION. Sec. 305. A new section is added to chapter 82.44 RCW to read as follows:

If the department determines a value for a motor vehicle under section 303 of this act equivalent to a manufacturer's base suggested retail price or the value of a truck-type power or trailing unit under section 303(2) of this act, any person who pays the tax under this chapter for that vehicle may appeal the valuation to the department under chapter 34.05 RCW. If the

taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.44.120.

Sec. 306. Section 82.44.110, chapter 15, Laws of 1961 as last amended by section 7, chapter 9, Laws of 1987 1st ex. sess. and RCW 82.44.110 are each amended to read as follows:

The county auditor shall regularly, when remitting license fee receipts, pay over and account to the director of licensing for the excise taxes collected under the provisions of this chapter. The director shall forthwith transmit the excise taxes to the state treasurer (~~(, ninety-eight percent of which excise tax revenue shall upon receipt thereof be credited by the state treasurer to the general fund, and two percent of which excise tax revenue shall be credited by the state treasurer to the motor vehicle fund to defray administrative and other expenses incurred by the state department of licensing in the collection of the excise tax. PROVIDED, That:~~

~~(1) One hundred percent of the proceeds of the additional tax imposed by RCW 82.44.020(2) shall be credited by the state treasurer to the Puget Sound capital construction account in the motor vehicle fund;~~

~~(2) One hundred percent of the proceeds of the additional tax imposed by RCW 82.44.020(3) shall be credited by the state treasurer to the Puget Sound ferry operations account in the motor vehicle fund; and~~

~~(3) All revenues collected under RCW 82.44.020(6) shall be credited by the state treasurer to the general fund)).~~

The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(1) as follows:

(1) 1.60 percent into the motor vehicle fund to defray administrative and other expenses incurred by the department in the collection of the excise tax.

(2) 8.15 percent into the Puget Sound capital construction account in the motor vehicle fund.

(3) 4.07 percent into the Puget Sound ferry operations account in the motor vehicle fund.

(4) 8.83 percent into the general fund to be distributed under section 309 of this act.

(5) 4.75 percent into the municipal sales and use tax equalization account in the general fund created in RCW 82.14.210.

(6) 1.60 percent into the county sales and use tax equalization account in the general fund created in RCW 82.14.200.

(7) 71 percent into the general fund through June 30, 1993, and 66 percent into the general fund beginning July 1, 1993.

(8) 5 percent into the transportation fund created in section 312 of this act beginning July 1, 1993.

The state treasurer shall deposit the excise taxes collected under RCW 82.44.020(2) into the transportation fund.

Sec. 307. Section 82.44.120, chapter 15, Laws of 1961 as last amended by section 2, chapter 68, Laws of 1989 and RCW 82.44.120 are each amended to read as follows:

Whenever any person has paid a motor vehicle license fee, and together therewith has paid an excise tax imposed under the provisions of this chapter, and the director of licensing determines that the payor is entitled to a refund of the entire amount of the license fee as provided by law, then ~~((he))~~ the payor shall also be entitled to a refund of the entire excise tax collected under the provisions of this chapter. In case the director determines that any person is entitled to a refund of only a part of the license fee so paid, the payor shall be entitled to a refund of the difference, if any, between the excise tax collected and that which should have been collected ~~((and the state treasurer shall determine the amount of such refund by reference to the applicable excise tax schedule prepared by the department of revenue in cooperation with the department of licensing))~~.

In case no claim is to be made for the refund of the license fee or any part thereof but claim is made by any person that he or she has paid an erroneously excessive amount of excise tax, the department ~~((of licensing))~~ shall determine in the manner generally provided in this chapter the amount of such excess, if any, that has been paid and shall certify to the state treasurer that such person is entitled to a refund in such amount.

In any case where due to error, a person has been required to pay an excise tax pursuant to this chapter and a vehicle license fee pursuant to Title 46 RCW which amounts to an overpayment of ten dollars or more, such person shall be entitled to a refund of the entire amount of such overpayment, regardless of whether or not a refund of the overpayment has been requested. Conversely, if due to error, the department or its agents has failed to collect the full amount of the license fee and excise tax due, which underpayment is in the amount of ten dollars or more, the department shall charge and collect such additional amount as will constitute full payment of the tax.

If the department approves the claim it shall notify the state treasurer to that effect, and the treasurer shall make such approved refunds and the other refunds herein provided for from the general fund and shall mail or deliver the same to the person entitled thereto.

Any person making any false statement under which he or she obtains any amount of refund to which he or she is not entitled under the provisions of this section is guilty of a gross misdemeanor.

Sec. 308. Section 1, chapter 18, Laws of 1988 and RCW 82.44.150 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, ~~((commencing with November, 1971;))~~ advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department ~~((of licensing))~~ during the preceding

calendar quarter ending on the last day of March, June, September, and December, respectively, except for those payable under RCW (~~(82.44.020(6) and~~) 82.44.030, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW (~~(82.44.020(6) and~~) 82.44.030, from each county shall be multiplied by a fraction, the numerator of which is the population of the municipality residing in such county, and the denominator of which is the total population of the county in which such municipality or portion thereof is located. The product of this computation shall be the amount of excise taxes from motor vehicle owners residing within such municipality or portion thereof. Where the municipality levying a tax under RCW 35.58.273 is located in more than one county, the above computation shall be made by county, and the combined products shall provide the total amount of motor vehicle excise taxes from motor vehicle owners residing in the municipality as a whole. Population figures required for these computations shall be supplied to the director by the office of financial management, who shall adjust the fraction annually.

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided by the department (~~(of licensing)~~) shall, from motor vehicle excise taxes deposited in the general fund, under RCW 82.44.110(7), make the following ((apportionment and distribution of motor vehicle excise taxes deposited in the general fund except taxes collected under RCW 82.44.020(6):

~~A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions and for the purposes hereinafter set forth; a sum equal to two percent thereof shall be allocable to the county sales and use tax equalization account under RCW 82.14.200; and))~~ deposits:

(a) To the high capacity transportation account created in RCW 47.78.010, a sum equal to ((four and two-tenths)) 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 ((at a rate not exceeding ninety-six one-hundredths of one percent on the fair market value of every motor vehicle owned by a resident of such municipality shall be deposited in the rail development account established in RCW 47.78.010)) within a class AA county, or within a class A county contiguous to a class AA county, or within a second class county contiguous to a class A county that is contiguous to a class AA county;

(b) To the central Puget Sound public transportation account created in section 312 of this act, for revenues distributed after December 31, 1992, within a class AA county or within a class A county contiguous to a class AA county, 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 section 312 of this act, 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 transportation fund created in section 312 of this act, for revenues distributed after June 30, 1991, 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.

~~(3) ((The amount payable to cities and towns shall be apportioned among the several cities and towns within the state according to the following formula:~~

~~(a) Sixty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned ratably on the basis of population as last determined by the office of financial management.~~

~~(b) Thirty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned to cities and towns under RCW 82.14.210.~~

~~(4) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.~~

~~(5))~~ On the first day of the months of January, April, July, and October of each year, the state treasurer, based upon information provided by the department ~~((of licensing))~~, shall remit motor vehicle excise tax revenues imposed and collected under RCW 35.58.273 as follows:

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding the excise tax imposed under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter.

~~((6))~~ (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 ~~((5))~~ (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 ~~((5))~~ (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 ~~((5))~~ (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. At the time of the next fiscal audit of each municipality, the

state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

~~((7))~~ (5) The motor vehicle excise taxes imposed under RCW 35.58.273 and required to be remitted under this section shall be remitted without legislative appropriation.

~~((8))~~ (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 ~~((5))~~ (3) of this section.

NEW SECTION. Sec. 309. A new section is added to chapter 82.44 RCW to read as follows:

When distributions are made under RCW 82.44.150, the state treasurer shall apportion and distribute the motor vehicle excise taxes deposited into the general fund under RCW 82.44.110(4) to the cities and towns ratably on the basis of population as last determined by the office of financial management. When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be used by the city or town for the purposes of police and fire protection and the preservation of the public health in the city or town, and not otherwise. If it is adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

Sec. 310. Section 82.44.160, chapter 15, Laws of 1961 as last amended by section 7, chapter 54, Laws of 1974 ex. sess. and RCW 82.44.160 are each amended to read as follows:

Before distributing moneys to the cities and towns from the general fund, as provided in ~~((RCW 82.44.150))~~ section 309 of this act, and from the municipal sales and use tax equalization account, as provided in RCW 82.14.210, the state treasurer shall, on the first day of July of each year, make an annual deduction therefrom of a sum equal to one-half of the biennial appropriation made pursuant to this section, which amount shall be at least seven cents per capita of the population of all cities or towns as legally certified on that date, determined as provided in ~~((said section))~~ RCW 82.44.150, which sum shall be apportioned and transmitted to the municipal research council, herein created. Sixty-five percent of the annual deduction shall be from the distribution to cities and towns under section 309 of this act, and thirty-five percent of the annual deduction shall be from the distribution to the municipal sales and use tax equalization account under RCW 82.14.210. The municipal research council may contract with and allocate moneys to any state agency, educational institution, or private consulting firm, which in its judgment is qualified to carry on a municipal research and service program. Moneys may be utilized to match federal

funds available for technical research and service programs to cities and towns. Moneys allocated shall be used for studies and research in municipal government, publications, educational, conferences, and attendance thereat, and in furnishing technical, consultative, and field services to cities and towns in problems relating to planning, public health, municipal sanitation, fire protection, law enforcement, postwar improvements, and public works, and in all matters relating to city and town government. The programs shall be carried on and all expenditures shall be made in cooperation with the cities and towns of the state acting through the Association of Washington Cities by its board of directors which is hereby recognized as their official agency or instrumentality.

Funds appropriated to the municipal research council shall be kept in the treasury in the general fund, and shall be disbursed by warrant or check to contracting parties on invoices or vouchers certified by the ~~((chairman))~~ chair of the municipal research council or his or her designee. Payments to public agencies may be made in advance of actual work contracted for, in the discretion of the council.

Sixty-five percent of any moneys remaining unexpended or uncontracted for by the municipal research council at the end of any fiscal biennium shall be returned to the general fund and be paid to cities and towns under ~~((the provisions of RCW 82.44.150))~~ section 309 of this act. The remaining thirty-five percent shall be deposited into the municipal sales and use tax equalization account.

Sec. 311. Section 22, chapter 380, Laws of 1985 as amended by section 56, chapter 244, Laws of 1987 and RCW 82.44.170 are each amended to read as follows:

For each IRP jurisdiction that cannot report to the director the sums of dollars that are collected for the motor vehicle excise tax pursuant to chapter 82.44 RCW separately from other vehicle licensing fees pursuant to RCW 46.16.070 and 46.16.085, the director shall distribute ~~((thirty-six))~~ thirty-three percent of the total fees collected as reported on the IRP vehicle registration recap information forwarded to the director by such jurisdiction pursuant to RCW 82.44.110, until such time as such jurisdiction begins reporting excise tax amounts separately from other vehicle licensing fees. The remainder of the fees collected shall be distributed in accordance with RCW 46.68.035.

NEW SECTION. Sec. 312. A new section is added to chapter 82.44 RCW to read as follows:

(1) The transportation fund is created in the state treasury. Revenues under RCW 82.44.020, 82.44.110, 82.44.150, and the surcharge under RCW 82.50.510 shall be deposited into the fund as provided in those sections.

Moneys in the fund may be spent only after appropriation. Expenditures from the fund may be used only for transportation purposes.

(2) There is hereby created the central Puget Sound public transportation account within the transportation fund. Moneys deposited into the account under RCW 82.44.150(2)(b) shall be expended within the three county region from which the funds are derived, solely for:

(a) Development of high capacity transportation systems as defined in section 22, chapter __ (House Bill No. 1825), Laws of 1990;

(b) Development of high occupancy vehicle lanes and related facilities as defined in section 13, chapter __ (House Bill No. 1825), Laws of 1990; and

(c) Public transportation system contributions required to fund projects approved by the transportation improvement board.

(3) There is hereby created the public transportation systems account within the transportation fund. Moneys deposited into the account under RCW 82.44.150(2)(c) shall be available to the public transportation system from which the funds are derived, solely for:

(a) Development of high capacity transportation systems as defined in section 22, chapter __ (House Bill No. 1825), Laws of 1990;

(b) Development of high occupancy vehicle lanes and related facilities as defined in section 13, chapter __ (House Bill No. 1825), Laws of 1990;

(c) Other public transportation system-related roadway projects on state highways, county roads, or city streets; and

(d) Public transportation system contributions required to fund projects approved by the transportation improvement board.

Sec. 313. Section 21, chapter 49, Laws of 1982 1st ex. sess. as last amended by section 82, chapter 57, Laws of 1985 and RCW 82.14.200 are each amended to read as follows:

There is created in the state treasury a special account to be known as the "county sales and use tax equalization account." Into this account shall be placed a portion of all motor vehicle excise tax receipts as provided in RCW ((82.44.150(2))) 82.44.110(6). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for the unincorporated area of each county and the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than one hundred fifty thousand dollars from the tax for the previous calendar year, an amount from the county sales and

use tax equalization account sufficient, when added to the amount of revenues received the previous calendar year by the county, to equal one hundred fifty thousand dollars.

The department of revenue shall establish a governmental price index as provided in this subsection. The base year for the index shall be the end of the third quarter of 1982. Prior to November 1, 1983, and prior to each November 1st thereafter, the department of revenue shall establish another index figure for the third quarter of that year. The department of revenue may use the implicit price deflators for state and local government purchases of goods and services calculated by the United States department of commerce to establish the governmental price index. Beginning on January 1, 1984, and each January 1st thereafter, the one hundred fifty thousand dollar base figure in this subsection shall be adjusted in direct proportion to the percentage change in the governmental price index from 1982 until the year before the adjustment. Distributions made under this subsection for 1984 and thereafter shall use this adjusted base amount figure.

(3) Subsequent to the distributions under subsection (2) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties as determined by the department of revenue under subsection (1) of this section, an amount from the county sales and use tax equalization account sufficient, when added to the per capita level of revenues for the unincorporated area received the previous calendar year by the county, to equal seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties determined under subsection (1) of this section, subject to reduction under subsections (6) and (7) of this section. When computing distributions under this section, any distribution under subsection (2) of this section shall be considered revenues received from the tax imposed under RCW 82.14.030(1) for the previous calendar year.

(4) Subsequent to the distributions under subsection (3) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (2) of this section, a third distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (2) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the total distribution under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less

than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) Subsequent to the distributions under subsection (4) of this section and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each county imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a fourth distribution from the county sales and use tax equalization account. The distribution to each qualifying county shall be equal to the distribution to the county under subsection (3) of this section, subject to the reduction under subsections (6) and (7) of this section. To qualify for the distributions under this subsection, the county must impose the tax under RCW 82.14.030(2) for the entire calendar year. Counties imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(6) Revenues distributed under this section in any calendar year shall not exceed an amount equal to seventy percent of the state-wide weighted average per capita level of revenues for the unincorporated areas of all counties during the previous calendar year. If distributions under subsections (3) through (5) of this section cannot be made because of this limitation, then distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties.

(7) If inadequate revenues exist in the county sales and use tax equalization account to make the distributions under subsections (3) through (5) of this section, then the distributions under subsections (3) through (5) of this section shall be reduced ratably among the qualifying counties. At such time during the year as additional funds accrue to the county sales and use tax equalization account, additional distributions shall be made under subsections (3) through (5) of this section to the counties.

(8) If the level of revenues in the county sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (5) of this section, then the additional revenues shall be credited and transferred to the state general fund.

(9) All earnings of investments of balances in the county sales and use tax equalization account shall be credited to the general fund.

Sec. 314. Section 22, chapter 49, Laws of 1982 1st ex. sess. as last amended by section 83, chapter 57, Laws of 1985 and RCW 82.14.210 are each amended to read as follows:

There is created in the state treasury a special account to be known as the "municipal sales and use tax equalization account." Into this account shall be placed such revenues as are provided under RCW

~~((82.44.150(3)(b)))~~ 82.44.110(5). Funds in this account shall be allocated by the state treasurer according to the following procedure:

(1) Prior to April 1st of each year the director of revenue shall inform the state treasurer of the total and the per capita levels of revenues for each city and the state-wide weighted average per capita level of revenues for all cities imposing the sales and use tax authorized under RCW 82.14.030(1) for the previous calendar year.

(2) At such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city not imposing the sales and use tax under RCW 82.14.030(2) an amount from the municipal sales and use tax equalization account equal to the amount distributed to the city under ~~((RCW 82.44.150(3)(a)))~~ section 309 of this act multiplied by thirty-five sixty-fifths.

(3) Subsequent to the distributions under subsection (2) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(1) at the maximum rate and receiving less than seventy percent of the state-wide weighted average per capita level of revenues for all cities as determined by the department of revenue under subsection (1) of this section, an amount from the municipal sales and use tax equalization account sufficient, when added to the per capita level of revenues received the previous calendar year by the city, to equal seventy percent of the state-wide weighted average per capita level of revenues for all cities determined under subsection (1) of this section, subject to reduction under subsection (5) of this section.

(4) Subsequent to the distributions under subsection (3) of this section, and at such times as distributions are made under RCW 82.44.150, as now or hereafter amended, the state treasurer shall apportion to each city imposing the sales and use tax under RCW 82.14.030(2) at the maximum rate and receiving a distribution under subsection (3) of this section, a third distribution from the municipal sales and use tax equalization account. The distribution to each qualifying city shall be equal to the distribution to the city under subsection (3) of this section, subject to the reduction under subsection (5) of this section. To qualify for the distributions under this subsection, the city must impose the tax under RCW 82.14.030(2) for the entire calendar year. Cities imposing the tax for less than the full year shall qualify for prorated allocations under this subsection proportionate to the number of months of the year during which the tax is imposed.

(5) If inadequate revenues exist in the municipal sales and use tax equalization account to make the distributions under subsection (3) or (4) of this section, then the distributions under subsection (3) or (4) of this section shall be reduced ratably among the qualifying cities. At such time during the year as additional funds accrue to the municipal sales and use

tax equalization account, additional distributions shall be made under subsections (3) and (4) of this section to the cities.

(6) If the level of revenues in the municipal sales and use tax equalization account exceeds the amount necessary to make the distributions under subsections (2) through (4) of this section, then the additional revenues shall be apportioned among the several cities within the state ratably on the basis of population as last determined by the office of financial management: PROVIDED, That no such distribution shall be made to those cities receiving a distribution under subsection (2) of this section.

(7) For a city or town initially incorporated on or after January 1, 1983, at the time distributions are made under subsection (3) of this section, the state treasurer shall place into a separate designated account for such city or town a pro rata amount of the revenues received under RCW ((82.44.150(3)(b))) 82.44.110(5) equal to the city's or town's population multiplied by the amount of equalization funds to which the city or town would be entitled if its per capita yield the previous calendar year were zero. Such account shall take effect on January 1st of the first full calendar year during which the city or town imposes the taxes authorized by RCW 82.14.030(1) and shall cease to exist on December 31st of that year.

(8) All earnings of investments of balances in the municipal sales and use tax equalization account shall be credited to the general fund.

At the time that sales and use tax distributions are made pursuant to RCW 82.14.060, the revenues in such designated account shall be added to the city's or town's sales and use tax distributions so as to provide to such city or town an amount which reflects what such jurisdiction's entitlement from the municipal sales and use tax equalization account would have been if the actual distributions of sales and use tax revenues to such city or town had been received the previous full calendar year. Any excess revenues remaining in such designated account upon its expiration shall be apportioned according to subsection (6) of this section. If the department of revenue determines during the year that any funds in the designated account are not necessary for the purposes of distribution under this subsection, the department may deposit those funds in the municipal sales and use tax equalization account to be apportioned according to subsection (6) of this section.

Sec. 315. Section 7, chapter 270, Laws of 1975 1st ex. sess. as last amended by section 46, chapter 167, Laws of 1983 and RCW 35.58.2721 are each amended to read as follows:

(1) In addition to any other authority now provided by law, and subject only to constitutional limitations, the governing body of any municipality shall be authorized to acquire, construct, operate, and maintain a public transportation system and additions and betterments thereto, and to issue general obligation bonds for public mass transportation capital purposes including but not limited to replacement of equipment: PROVIDED, That the general indebtedness incurred under this section when considered together

with all the other outstanding general indebtedness of the municipality shall not exceed the amounts of indebtedness authorized by chapter 39.36 RCW and chapter 35.58 RCW, as now or hereafter amended, to be incurred without and with the assent of the voters. Such bonds may be in any form, including bearer bonds or registered bonds as provided in RCW 39.46.030.

~~((Upon July 1, 1975 any such municipality is authorized to pledge that the taxes authorized, levied and collected to pay or secure the payment of any bonds issued after July 1, 1975 for authorized public transportation purposes shall continue to be levied, collected and applied until such bonds shall have been paid or sufficient funds for such payment shall have been duly provided and irrevocably set aside by the issuer for such payment. If any of the revenue from any tax or surcharge authorized by this or any other chapter shall have been pledged to secure the payment of any bonds as herein authorized, then as long as that pledge shall be in effect the legislature shall not withdraw the authority to levy and collect the tax:))~~ Any municipality is authorized to pledge for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes all or any portion of any taxes authorized to be levied by the issuer, including, but not limited to, the local sales and use tax authorized pursuant to RCW 82.14.045, as now or hereafter amended. ~~((The preceding sentence notwithstanding, not more than ten percent of the motor vehicle excise taxes levied and collected pursuant to RCW 35.58.273 may be pledged for the payment or security of the principal of and interest on any bonds issued for authorized public transportation purposes after July 1, 1975 but before May 14, 1979, and))~~ No motor vehicle excise taxes under RCW 35.58.273 may be pledged for bonds ~~((issued on or after May 14, 1979))~~.

(2) Notwithstanding subsection (1) of this section, such bonds may be issued and sold in accordance with chapter 39.46 RCW.

Sec. 316. Section 8, chapter 255, Laws of 1969 ex. sess. as last amended by section 2, chapter 428, Laws of 1987 and RCW 35.58.273 are each amended to read as follows:

(1) Through June 30, 1992, any municipality within a class AA county, or within a class A county contiguous to a class AA county, or within a second class county contiguous to a class A county that is contiguous to a class AA county is authorized to levy and collect a special excise tax not exceeding ((ninety-six one-hundredths of one)) .7824 percent and beginning July 1, 1992, .725 percent on the fair market value of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 (5) and (6), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020.

(2) Through June 30, 1992, any other municipality is authorized to levy and collect a special excise tax not exceeding ((one)) .815 percent, and beginning July 1, 1992, .725 percent on the fair market value of every motor vehicle owned by a resident of such municipality for the privilege of using such motor vehicle provided that in no event shall the tax be less than one dollar and, subject to RCW 82.44.150 ((5) and (6)) (3) and (4), the amount of such tax shall be credited against the amount of the excise tax levied by the state under RCW 82.44.020((-PROVIDED, That)). Before utilization of any excise tax moneys collected under authorization of this section for acquisition of right of way or construction of a mass transit facility on a separate right of way the municipality shall adopt rules affording the public an opportunity for "corridor public hearings" and "design public hearings" as herein defined, which rule shall provide in detail the procedures necessary for public participation in the following instances: (a) prior to adoption of location and design plans having a substantial social, economic or environmental effect upon the locality upon which they are to be constructed or (b) on such mass rapid transit systems operating on a separate right of way whenever a substantial change is proposed relating to location or design in the adopted plan. In adopting rules the municipality shall adhere to the provisions of the Administrative Procedure Act.

(3) A "corridor public hearing" is a public hearing that: (a) is held before the municipality is committed to a specific mass transit route proposal, and before a route location is established; (b) is held to afford an opportunity for participation by those interested in the determination of the need for, and the location of, the mass rapid transit system; (c) provides a public forum that affords a full opportunity for presenting views on the mass rapid transit system route location, and the social, economic and environmental effects on that location and alternate locations: PROVIDED, That such hearing shall not be deemed to be necessary before adoption of an overall mass rapid transit system plan by a vote of the electorate of the municipality.

(4) A "design public hearing" is a public hearing that: (a) is held after the location is established but before the design is adopted; and (b) is held to afford an opportunity for participation by those interested in the determination of major design features of the mass rapid transit system; and (c) provides a public forum to afford a full opportunity for presenting views on the mass rapid transit system design, and the social, economic, environmental effects of that design and alternate designs.

Sec. 317. Section 43.62.010, chapter 8, Laws of 1965 as last amended by section 127, chapter 151, Laws of 1979 and RCW 43.62.010 are each amended to read as follows:

If the state or any of its political subdivisions, or other agencies, use the population studies services of the office of financial management or the

successor thereto, the state, its political subdivision, or other agencies utilizing such services shall pay for the cost of rendering such services. Expenditures shall be paid out of funds allocated to cities and towns under ~~((RCW 82.44.150, as derived from section 5, chapter 152, Laws of 1945,))~~ section 309 of this act and shall be paid from said fund before any allocations or payments are made to cities and towns under ~~((said act))~~ section 309 of this act.

Sec. 318. Section 111, chapter 7, Laws of 1985 as amended by section 1, chapter 240, Laws of 1989 and RCW 46.16.015 are each amended to read as follows:

(1) Neither the department of licensing nor its agents may issue or renew a motor vehicle license for any vehicle registered in an emission contributing area, as that area is established under chapter 70.120 RCW, for any year in which the vehicle is required to be tested under chapter 70.120 RCW, unless the application for issuance or renewal is: (a) Accompanied by a valid certificate of compliance or a valid certificate of acceptance issued pursuant to chapter 70.120 RCW; or (b) exempted from this requirement pursuant to subsection (2) of this section. The certificates must have a date of validation which is within ninety days of the date of application for the vehicle license or license renewal. Certificates for fleet vehicles may have a date of validation which is within twelve months of the assigned license renewal date.

(2) Subsection (1) of this section does not apply to the following vehicles:

(a) New motor vehicles whose equitable or legal title has never been transferred to a person who in good faith purchases the vehicle for purposes other than resale;

(b) Motor vehicles with a model year of 1967 or earlier;

(c) Motor vehicles that use propulsion units powered exclusively by electricity;

(d) Motor vehicles fueled exclusively by propane, compressed natural gas, or liquid petroleum gas, unless it is determined that federal sanctions will be imposed as a result of this exemption;

(e) Motorcycles as defined in RCW 46.04.330 and motor-driven cycles as defined in RCW 46.04.332;

(f) Motor vehicles powered by diesel engines;

(g) Farm vehicles as defined in RCW 46.04.181;

(h) Used vehicles which are offered for sale by a motor vehicle dealer licensed under chapter 46.70 RCW; or

(i) Motor vehicles exempted by the director of the department of ecology.

The provisions of subparagraph (a) of this subsection may not be construed as exempting from the provisions of subsection (1) of this section

applications for the renewal of licenses for motor vehicles that are or have been leased.

(3) The department of licensing shall mail to each owner of a vehicle registered within an emission contributing area a notice regarding the boundaries of the area and restrictions established under this section that apply to vehicles registered in such areas. The information for the notice shall be supplied to the department of licensing by the department of ecology. ~~((Such a notice shall be mailed to the owner ninety days prior to the expiration date of the owner's motor vehicle license.))~~ The department of licensing shall send to all registered motor vehicle owners who reside within the emissions area notice that they must have an emission test to renew their registration.

Sec. 319. Section 31, chapter 35, Laws of 1982 1st ex. sess. as last amended by section 4, chapter 80, Laws of 1987, section 15, chapter 472, Laws of 1987, and by section 6, chapter 9, Laws of 1987 1st ex. sess. and RCW 82.02.030 are each reenacted and amended to read as follows:

(1) The rate of the additional taxes under RCW 54.28.020(2), 54.28.025(2), 66.24.210(2), 66.24.290(2), 82.04.2901, 82.16.020(2), 82.26.020(2), 82.27.020(5), and 82.29A.030(2)~~(, and 82.44.020(6))~~ shall be seven percent; and

(2) The rate of the additional taxes under RCW 82.08.150(4) shall be fourteen percent.

Sec. 320. Section 55, chapter 299, Laws of 1971 ex. sess. as last amended by section 1, chapter 123, Laws of 1979 and RCW 82.50.400 are each amended to read as follows:

An annual excise tax is imposed on the owner of any travel trailer or camper for the privilege of using such travel trailer or camper in this state. The excise tax hereby imposed shall be due and payable to the department of licensing or its agents at the time of registration of a travel trailer or camper. Whenever an application is made to the department of licensing or its agents for a license for a travel trailer or camper there shall be collected, in addition to the amount of the license fee or renewal license fee, the amount of the excise tax imposed by this chapter ~~((prorated to comply with the effective date of the annual schedule prepared pursuant to RCW 82.44.040))~~, and no dealer's license or license plates, and no license or license plates for a travel trailer or camper may be issued unless such tax is paid in full. No additional tax shall be imposed under this chapter upon any travel trailer or camper upon the transfer of ownership thereof, if the tax imposed by this chapter with respect to such travel trailer or camper has already been paid for the registration year or fractional part thereof in which such transfer occurs.

Sec. 321. Section 56, chapter 299, Laws of 1971 ex. sess. as last amended by section 2, chapter 123, Laws of 1979 and RCW 82.50.410 are each amended to read as follows:

The rate and measure of tax imposed by this chapter for each registration year shall be one percent, and a surcharge of one-tenth of one percent, of the ((fair-market)) value of the travel trailer or camper, as determined in the manner provided in this chapter: PROVIDED, That the excise tax upon a travel trailer or camper licensed for the first time in this state after the last day of any registration month may only be levied for the remaining months of the registration year including the month in which the travel trailer or camper is first licensed: PROVIDED FURTHER, That the minimum amount of tax payable shall be two dollars: PROVIDED FURTHER, That every dealer in mobile homes or travel trailers, for the privilege of using any mobile home or travel trailer eligible to be used under a dealer's license plate, shall pay an excise tax of two dollars, and such tax shall be collected upon the issuance of each original dealer's license plate, and also a similar tax shall be collected upon the issuance of each dealer's duplicate license plate, which taxes shall be in addition to any tax otherwise payable under this chapter.

A travel trailer or camper shall be deemed licensed for the first time in this state when such vehicle was not previously licensed by this state for the registration year or any part thereof immediately preceding the registration year in which application for license is made or when it has been registered in another jurisdiction subsequent to any prior registration in this state.

Sec. 322. Section 66, chapter 299, Laws of 1971 ex. sess. as amended by section 1, chapter 75, Laws of 1975-'76 2nd ex. sess. and RCW 82.50-.510 are each amended to read as follows:

The county auditor shall regularly, when remitting motor vehicle excise taxes, pay to the state treasurer the excise taxes collected under this chapter. The treasurer shall then distribute such funds quarterly on the first day of the month of January, April, July and October of each year in the following amount: (1) For the one percent tax imposed under RCW 82.50.410, fifteen percent to cities and towns for the use thereof apportioned ratably among such cities and towns on the basis of population; fifteen percent to counties for the use thereof to be apportioned ratably among such counties on the basis of moneys collected in such counties from the excise taxes imposed under this chapter; and seventy percent for schools to be deposited in the state general fund; and (2) for the one-tenth of one percent surcharge imposed under RCW 82.50.410, one hundred percent to the transportation fund created in section 312 of this act.

NEW SECTION. Sec. 323. A new section is added to chapter 82.50 RCW to read as follows:

For the purpose of determining the tax under this chapter, the value of a travel trailer or camper is the manufacturer's base suggested retail price

of the travel trailer or camper when first offered for sale as new, excluding any optional equipment, applicable federal excise taxes, state and local sales or use taxes, transportation or shipping costs, or preparatory or delivery costs, multiplied by the applicable percentage listed in this section based on the year of service.

If the manufacturer's base suggested retail price is unavailable or otherwise unascertainable at the time of initial registration in this state, the department shall determine a value equivalent to a manufacturer's base suggested retail price as follows:

(1) The department shall determine a value using any information that may be available, including any guidebook, report, or compendium of recognized standing in the automotive industry or the selling price and year of sale of the travel trailer or camper. The department may use an appraisal by the county assessor. In valuing a travel trailer or camper for which the current value or selling price is not indicative of the value of similar travel trailers or campers of the same year and model, the department shall establish a value that more closely represents the average value of similar travel trailers or campers of the same year and model. If the travel trailer or camper is home-built, the value shall not be less than the cost of construction.

(2) The value determined in subsection (1) of this section shall be divided by the applicable percentage listed in this section to establish a value equivalent to a manufacturer's base suggested retail price. The applicable percentage shall be based on the year of service of the travel trailer or camper for which the value is determined.

<u>YEAR OF SERVICE</u>	<u>PERCENTAGE</u>
1	100
2	90
3	84
4	79
5	73
6	65
7	60
8	55
9	50
10	45
11	41
12	37
13	33
14	28
15	24
16 or older	20

NEW SECTION. Sec. 324. A new section is added to chapter 82.50 RCW to read as follows:

If the department determines a value for a travel trailer or camper under section 323 of this act equivalent to a manufacturer's base suggested retail price, any person who pays the tax for that travel trailer or camper may appeal the valuation to the department under chapter 34.05 RCW. If the taxpayer is successful on appeal, the department shall refund the excess tax in the manner provided in RCW 82.50.170.

Sec. 325. Section 7, chapter 91, Laws of 1975 '76 2nd ex. sess. as amended by section 7, chapter 32, Laws of 1980 and RCW 46.12.360 are each amended to read as follows:

A vehicle owner shall be reimbursed from the motor vehicle fund when: (1) ~~((His))~~ The vehicle identification number was physically inspected and verified pursuant to RCW 46.12.030(3); and (2) the vehicle is determined subsequently to have been reported stolen at the time of the inspection. Such reimbursement shall be for the value of the vehicle ~~((as determined by criteria set forth in RCW 82.44.040))~~; PROVIDED, That no claim shall be allowed under this section following a satisfactory showing by the department that errors, omissions, or transpositions were made in entering the vehicle's identity in the stolen vehicle file.

NEW SECTION. Sec. 326. Notwithstanding any other provision of this act, motor vehicles and travel trailers and campers that are valued under the system in effect before the effective date of this section shall be valued by using the initial valuation of the vehicle under chapter 82.44 or 82.50 RCW multiplied by the applicable percentage under section 303 or 323 of this act. Before December 1992 vehicle license expirations, no tax may be imposed on any motor vehicle or travel trailer or camper that is greater than one hundred ten percent of the tax imposed during the registration period in effect before the effective date of this section.

NEW SECTION. Sec. 327. Distributions under RCW 82.44.150 for excise taxes collected under RCW 35.58.273, before September 1, 1990, shall be under the provisions of RCW 82.44.150 as it existed before September 1, 1990.

NEW SECTION. Sec. 328. The following acts or parts of acts are each repealed:

- (1) Section 6, chapter 200, Laws of 1983 and RCW 82.44.013;
- (2) Section 82.44.040, chapter 15, Laws of 1961, section 94, chapter 278, Laws of 1975 1st ex. sess., section 12, chapter 118, Laws of 1975 1st ex. sess., section 231, chapter 158, Laws of 1979 and RCW 82.44.040;
- (3) Section 52, chapter 299, Laws of 1971 ex. sess., section 13, chapter 118, Laws of 1975 1st ex. sess., section 232, chapter 158, Laws of 1979 and RCW 82.44.045;

(4) Section 82.44.050, chapter 15, Laws of 1961, section 3, chapter 199, Laws of 1963, section 11, chapter 222, Laws of 1981 and RCW 82.44.050;

(5) Section 57, chapter 299, Laws of 1971 ex. sess. and RCW 82.50.420; and

(6) Section 58, chapter 299, Laws of 1971 ex. sess. and RCW 82.50.430.

PART IV: MISCELLANEOUS

Sec. 401. Section 1, chapter 131, Laws of 1979 and RCW 47.56.711 are each amended to read as follows:

~~((In order to permit the construction of a new))~~ The state highway bridge across the Spokane river in the vicinity of Trent Avenue in Spokane ~~((, the department of transportation acting through the transportation commission is authorized to enter into a contract or contracts with the Washington public employees' retirement system and the Washington state teachers' retirement system, each retirement system acting through the department of retirement systems, pursuant to which the state may issue refunding bonds to be exchanged for all outstanding Spokane river toll bridge revenue bonds held by the retirement systems in return for the agreement by the retirement systems to permit the construction of a new state highway bridge, to))~~ shall be known and designated as the James E. Keefe bridge ~~((; across the Spokane river in the vicinity of Trent Avenue in Spokane. If the department of transportation and those retirement systems enter into such contract or contracts, the state finance committee is authorized to issue refunding bonds in accordance with RCW 47.56.711 through 47.56.716 to carry out the terms of such contract or contracts))~~.

After the effective date of this section, ownership of the Spokane river toll bridge, known as the Maple Street bridge, shall revert to the city of Spokane.

NEW SECTION. Sec. 402. The city of Spokane shall be responsible for operating and maintaining the Spokane river toll bridge and the surrounding area except:

(1) The department of transportation shall remove the toll booths and restripe the approaches, as necessary, once the tolls have been removed.

(2) The department of transportation shall replace the bridge deck and upgrade the approaches. In order to accomplish this activity, the department of transportation shall pursue federal bridge replacement funds and the city of Spokane shall contribute three hundred thousand dollars towards the required matching funds.

NEW SECTION. Sec. 403. The following acts or parts of acts are each repealed:

(1) Section 2, chapter 131, Laws of 1979 and RCW 47.56.712;

(2) Section 3, chapter 131, Laws of 1979 and RCW 47.56.713;

- (3) Section 4, chapter 131, Laws of 1979 and RCW 47.56.714;
- (4) Section 5, chapter 131, Laws of 1979 and RCW 47.56.715; and
- (5) Section 6, chapter 131, Laws of 1979 and RCW 47.56.716.

NEW SECTION. Sec. 404. The state treasurer shall transfer all remaining funds in the Spokane river toll bridge revenue account to the motor vehicle fund to be used for the following purposes:

(1) Repay existing loans from the motor vehicle fund to the Spokane river toll bridge revenue account in the amount of six hundred sixteen thousand two dollars and thirty-three cents;

(2) Fund removal of toll booths and associated repairs on the Spokane river toll bridge; and

(3) Fund preliminary engineering of the bridge deck replacement on the Spokane river toll bridge.

Any remaining funds are reserved to provide matching funds for federal bridge replacement funds to replace the bridge deck in the 1991-93 biennium.

Sec. 405. Section 47.60.150, chapter 13, Laws of 1961 as last amended by section 1, chapter 23, Laws of 1986 and by section 2, chapter 66, Laws of 1986 and RCW 47.60.150 are each reenacted and amended to read as follows:

Subject to the provisions of RCW 47.60.326, the schedule of charges for the services and facilities of the system shall be fixed and revised from time to time by the commission so that the tolls and revenues collected together with any moneys in the Puget Sound ferry operations account (~~appropriated~~) transferred to the ferry system revolving account for maintenance and operation, and all moneys in the Puget Sound capital construction account available for debt service will yield annual revenue and income sufficient, after allowance for all operating, maintenance, and repair expenses to pay the interest and principal and sinking fund charges for all outstanding revenue bonds, and to create and maintain a fund for ordinary renewals and replacements: PROVIDED, That if provision is made by any resolution for the issuance of revenue bonds for the creation and maintenance of a special fund for rehabilitating, rebuilding, enlarging, or improving all or any part of the ferry system then such schedule of tolls and rates of charges shall be fixed and revised so that the revenue and income will also be sufficient to comply with such provision.

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

by law. Nothing in this section requires tolls on the Hood Canal bridge except as may be required by any bond covenants.

Sec. 406. Section 5, chapter 344, Laws of 1981 as amended by section 25, chapter 15, Laws of 1983 and RCW 47.60.326 are each amended to read as follows:

(1) In order to maintain an adequate, fair, and economically sound schedule of charges for the transportation of passengers, vehicles, and commodities on the Washington state ferries, (~~including the Hood Canal bridge;~~) the department of transportation each year shall conduct a full review of such charges.

(2) Prior to February 1st of each odd-numbered year the department shall transmit to the transportation commission a report of its review together with its recommendations for the revision of a schedule of charges for the ensuing biennium. The commission on or before July 1st of that year shall adopt as a rule, in the manner provided by the Washington administrative procedure act, a schedule of charges for the Washington state ferries for the ensuing biennium commencing July 1st. The schedule may initially be adopted as an emergency rule if necessary to take effect on, or as near as possible to, July 1st.

(3) The department in making its review and formulating recommendations and the commission in adopting a schedule of charges may consider any of the following factors:

(a) The amount of subsidy available to the ferry system for maintenance and operation;

(b) The time and distance of ferry runs;

(c) The maintenance and operation costs for ferry runs with a proper adjustment for higher costs of operating outmoded or less efficient equipment;

(d) The efficient distribution of traffic between cross-sound routes;

(e) The desirability of reasonable commutation rates for persons using the ferry system to commute daily to work;

(f) The effect of proposed fares in increasing walk-on and vehicular passenger use;

(g) The effect of proposed fares in promoting all types of ferry use during nonpeak periods;

(h) Such other factors as prudent managers of a major ferry system would consider.

(4) If at any time during the biennium it appears that projected toll revenues from the ferry system, together with the (~~appropriation~~) transfer from the Puget Sound ferry operations account to the ferry system revolving account and any other operating subsidy available to the Washington state ferries, will be less than the projected total cost of maintenance and operation of the Washington state ferries for the biennium, the department shall forthwith undertake a review of its schedule of charges to ascertain whether

or not the schedule of charges should be revised. The department shall, upon completion of its review report, submit its recommendation to the transportation commission which may in its sound discretion revise the schedule of charges as required to meet necessary maintenance and operation expenditures of the ferry system for the biennium or may defer action until the regular annual review and revision of ferry charges as provided in subsection (2) of this section.

(5) The provisions of RCW 47.60.330 relating to public participation shall apply to the process of revising ferry tolls under this section.

Sec. 407. Section 3, chapter 9, Laws of 1961 ex. sess. as last amended by section 4, chapter 66, Laws of 1986 and RCW 47.60.420 are each amended to read as follows:

To the extent that all revenues from the Washington state ferry system ~~((and the Hood Canal bridge))~~ available therefor are insufficient to provide for the payment of principal and interest on the bonds authorized and issued under RCW 47.60.400 through 47.60.470 and for sinking fund requirements established with respect thereto and for payment into such reserves as the department has established with respect to the securing of the bonds, there is imposed a first and prior charge against the Puget Sound capital construction account of the motor vehicle fund created by RCW 47.60.505 and, to the extent required, against all revenues required by RCW 46.68-.100 to be deposited in the Puget Sound capital construction account.

To the extent that the revenues from the Washington state ferry system ~~((and the Hood Canal bridge))~~ available therefor are insufficient to meet required payments of principal and interest on bonds, sinking fund requirements, and payments into reserves, the department shall use moneys in the Puget Sound capital construction account for such purpose. ~~((Any moneys from the Puget Sound capital construction account used by the department to pay the obligations shall be repaid by the department to the motor vehicle fund from tolls of the Washington state ferry system and the Hood Canal bridge, and tolls shall be continued for any required additional length of time necessary for this purpose.))~~

Sec. 408. Section 5, chapter 9, Laws of 1961 ex. sess. as last amended by section 6, chapter 66, Laws of 1986 and RCW 47.60.440 are each amended to read as follows:

The Washington state ferry system shall be efficiently managed, operated, and maintained as a revenue-producing undertaking. Subject to the provisions of RCW 47.60.326 the commission shall maintain and revise from time to time as necessary a schedule of tolls and charges on said ferry system and, if necessary to comply with bond covenants, on the Hood Canal bridge which together with any moneys in the Puget Sound ferry operations account ((appropriated)) transferred to the ferry system revolving account for maintenance and operation and all moneys in the Puget Sound capital construction account available for debt service will produce net revenue

available for debt service, in each fiscal year, in an amount at least equal to minimum annual debt service requirements as hereinafter provided. Minimum annual debt service requirements as used in this section shall include required payments of principal and interest, sinking fund requirements, and payments into reserves on all outstanding revenue bonds authorized by RCW 47.60.400 through 47.60.470.

The provisions of law relating to the revision of tolls and charges to meet minimum annual debt service requirements from net revenues as required by this section shall be binding upon the commission but shall not be deemed to constitute a contract to that effect for the benefit of the holders of such bonds.

NEW SECTION. Sec. 409. A new section is added to chapter 47.60 RCW to read as follows:

Notwithstanding the provisions of RCW 47.56.240 and 47.56.245 the transportation commission shall not collect tolls on the Hood Canal bridge for any purpose except where necessary to comply with bond covenants.

The cost of maintenance, upkeep, and repair may be paid from funds appropriated for the construction and maintenance of the primary state highways of the state of Washington.

NEW SECTION. Sec. 410. The following acts or parts of acts are each repealed:

- (1) Section 3, chapter 10, Laws of 1961, section 7, chapter 9, Laws of 1961 ex. sess. and RCW 47.56.365;
- (2) Section 47.60.160, chapter 13, Laws of 1961, section 312, chapter 7, Laws of 1984 and RCW 47.60.160; and
- (3) Section 7, chapter 27, Laws of 1979 and RCW 47.60.543.

NEW SECTION. Sec. 411. A new section is added to chapter 46.68 RCW to read as follows:

(1) The Puyallup tribal settlement account is hereby created in the motor vehicle fund. All moneys designated by the "Agreement between the Puyallup Tribe of Indians, local governments in Pierce county, the state of Washington, the United States of America, and certain private property owners," dated August 27, 1988, (the "agreement") for use by the department of transportation on the Blair project as described in the agreement shall be deposited into the account, including but not limited to federal appropriations for the Blair project, and appropriations contained in section 34, chapter 6, Laws of 1989 1st ex. sess. and section 709, chapter 19, Laws of 1989 1st ex. sess.

(2) All moneys deposited into the account shall be expended by the department of transportation pursuant to appropriation solely for the Blair project as described in the agreement.

(3) All earnings of investments of balances in the account shall be credited to the account.

PART V: TECHNICAL PROVISIONS

NEW SECTION. Sec. 501. Sections 201, 206, and 208 through 214 of this act shall constitute a new chapter in Title 82 RCW.

NEW SECTION. Sec. 502. The index and part and section headings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 503. 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. 504. (1) Sections 101 through 104, 115 through 117, 201 through 214, 405 through 411, and 503 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 April 1, 1990.

(2) Sections 105 through 114 of this act shall take effect September 1, 1990. The additional fees in sections 105 through 108 of this act apply for all motor vehicle registrations that expire August 31, 1992, and thereafter.

(3) Sections 301 through 303 and 305 through 328 of this act shall take effect September 1, 1990, and apply to the purchase of vehicle registrations that expire August 31, 1991, and thereafter.

(4) Section 304 of this act shall take effect July 1, 1991, and apply to all vehicles registered for the first time with an expiration date of June 30, 1992, and thereafter.

(5) The director of licensing may immediately take such steps as are necessary to ensure that the sections of this act are implemented on their effective dates.

(6) Sections 401 through 404 of this act shall take effect September 1, 1990, only if the bonds issued under RCW 47.56.711 for the Spokane river toll bridge have been retired or fully defeased, and shall become null and void if the bonds have not been retired or fully defeased on that date.

Passed the Senate March 1, 1990.

Passed the House March 3, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 43

[Substitute House Bill No. 1825]

HIGH CAPACITY TRANSPORTATION SYSTEMS

AN ACT Relating to high capacity transportation systems; amending RCW 47.78.010, 82.44.150, and 35.92.060; reenacting and amending RCW 47.76.030; adding new sections to chapter 47.76 RCW; adding a new chapter to Title 47 RCW; adding new chapters to Title 81 RCW; creating new sections; and declaring an emergency.

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

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PART I
RAIL FREIGHT

NEW SECTION. Sec. 1. PURPOSE OF STATE FREIGHT RAIL PROGRAM. The legislature finds that a balanced multimodal transportation system is required to maintain the state's commitment to the growing mobility needs of its citizens and commerce. Freight rail systems are important elements of this multimodal system.

Washington's economy relies heavily upon the freight rail system to ensure movement of the state's agricultural, chemical, and natural resource products to local, national, and international markets. Since 1970, Washington has lost nearly one-third of its five thousand two hundred rail miles to abandonment and bankruptcies, leaving approximately three thousand four hundred rail miles. Recognizing the implications of this trend for freight mobility and the state's economic future, the legislature believes that better freight rail planning, better cooperation to preserve rail lines, and increased financial assistance from the state are necessary to maintain and improve the freight rail system within the state.

NEW SECTION. Sec. 2. STATE FREIGHT RAIL PROGRAM. The Washington state department of transportation shall implement a state freight rail program for rail coordination, planning, and technical assistance.

NEW SECTION. Sec. 3. FREIGHT RAIL PLANNING. (1) The department of transportation shall continue its responsibility for the development and implementation of the state rail plan and programs, and the utilities and transportation commission shall continue its responsibility for intrastate rates, service, and safety issues.

(2) The department of transportation shall maintain an enhanced data file on the rail system. Proprietary annual station traffic data from each railroad and the modal use of major shippers shall be obtained to the extent that such information is available.

(3) The department of transportation shall provide technical assistance, upon request, to state agencies and local interests. Technical assistance includes, but is not limited to, the following:

(a) Abandonment cost-benefit analyses, to include the public and private costs and benefits of maintaining the service, providing alternative service including necessary road improvement costs, or of taking no action;

(b) Assistance in the formation of county rail districts and port districts; and

(c) Feasibility studies for rail service continuation and/or rail service assistance.

(4) With funding authorized by the legislature, the department of transportation shall develop a cooperative process to conduct community and business information programs and to regularly disseminate information on rail matters. The following agencies and jurisdictions shall be involved in the process:

(a) The state departments of community development and trade and economic development;

(b) Local jurisdictions and local economic development agencies; and

(c) Other interested public and private organizations.

NEW SECTION. Sec. 4. FREIGHT RAIL PRESERVATION PROGRAM. The state, counties, local communities, railroads, labor, and shippers all benefit from continuation of rail service and should participate in its preservation. Lines which provide benefits to the state and local jurisdictions, such as avoided roadway costs, reduced traffic congestion, economic development potential, environmental protection, and safety, should be assisted through the joint efforts of the state, local jurisdictions, and the private sector.

(1) The department of transportation shall continue to monitor the status of the state's light density line system through the state rail plan and various analyses, and shall seek alternatives to abandonment prior to interstate commerce commission proceedings, where feasible.

(2) The utilities and transportation commission shall intervene in interstate commerce commission proceedings on abandonments, when necessary, to protect the state's interest.

(3) As conditions warrant, the following criteria shall be used for identifying the state's essential rail system:

(a) Established regional and short-line carriers excluding private operations which are not common carriers;

(b) Former state project lines, which are lines that have been studied and have received funds from the state and federal governments;

(c) Lines serving major agricultural and forest product areas or terminals, with such terminals generally being within a fifty-mile radius of producing areas, and sites associated with commodities shipped by rail;

(d) Lines serving ports, seaports, and navigable river ports;

(e) Lines serving power plants or energy resources;

(f) Lines used for passenger service;

(g) Mainlines connecting to the national and Canadian rail systems;

(h) Major intermodal service points or hubs; and

(i) The military's strategic rail network.

(4) Local jurisdictions may implement rail service preservation projects in the absence of state participation.

(5) The department of transportation shall continue to monitor projects for which it provides assistance.

NEW SECTION. Sec. 5. RAIL CORRIDOR PRESERVATION GUIDELINES. In rail banking situations where it is not practicable to implement or continue freight rail service operations until some future date and the line's right of way is available for purchase and/or meets the criteria of chapter 47.76 RCW:

(1) The department of transportation shall preserve rail corridors for future rail service by purchasing the rights of way with funds specifically appropriated from the essential rail banking account created in section 7 of this act.

(2) Acquisition of rights of way may also include track, bridges, and associated elements.

(3) All corridors purchased under the rail bank program shall be identified by the department of transportation.

(4) All corridors acquired by governmental entities by donation or reversion for future rail use shall be identified in the rail bank program.

(5) Any rail rights of way acquired with state money will be for present or future rail purposes and can only be used for other purposes with the consent of the Washington state department of transportation and the consent of the underlying fee title holder or reversionary rights holder, or if compensation has been made to the underlying fee title holder or reversionary rights holder.

NEW SECTION. Sec. 6. FINANCING MECHANISMS AND SOURCES FOR PUBLIC RAILROADS. State funding for rail service preservation shall benefit the state's interests, which include reducing public roadway maintenance and repair costs, increasing economic development opportunities, preserving jobs, and enhancing safety, and shall be contingent upon appropriate local participation.

NEW SECTION. Sec. 7. ESSENTIAL RAIL BANKING ACCOUNT—CREATION. (1) The essential rail banking 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 purposes specified in this section.

(2) Moneys in the account may be used by the department to:

(a) Purchase unused rail rights of way; or

(b) Provide up to eighty percent of the funding through loans to first class cities, port districts and county rail districts to purchase unused rail rights of way.

(3) Use of the moneys pursuant to subsection (2) of this section shall be for rights of way that meet the following criteria:

(a) The right of way has been identified, evaluated, and analyzed in the state rail plan prepared pursuant to this chapter;

(b) The right of way may be or has been abandoned;

(c) The right of way has potential for future rail service; and

(d) Reestablishment of rail service would benefit the state of Washington; and this benefit shall be based on the public and private costs and benefits of reestablishing the service compared with alternative service including necessary road improvement costs, or of taking no action.

Funds in the account may be expended for this purpose only with legislative appropriation. Funds for acquisition of any line shall be expended only after obtaining the approval of the legislative transportation committee. The department may also expend funds from the receipt of a donation of funds sufficient to cover the property acquisition and management costs. The department may receive donations of funds for this purpose, which shall be conditioned upon, and made in consideration for the repurchase rights contained in RCW 47.76.040. The department or the participating local jurisdiction shall be responsible for maintaining the right of way, including provisions for fire and weed control and for liability associated with ownership. Nothing in this section and in sections 5 and 11 of this act shall be interpreted or applied so as to impair the reversionary rights of abutting landowners, if any, without just compensation.

(4) All earnings of investments of balances in the essential rail banking account shall be credited to that account except as provided in RCW 43.84.090 and 43.84.092.

NEW SECTION. Sec. 8. **EVALUATING PROGRAM PERFORMANCE.** The department shall evaluate the state freight rail program performance at the end of six years with respect to past and current conditions and future needs. The results of this evaluation shall be presented to the legislative transportation committee.

NEW SECTION. Sec. 9. **TAX RELIEF STUDY.** The department of revenue, working with the department of transportation, shall study and report its findings to the legislative transportation committee, by December 1, 1991, with respect to a potential tax relief program under Title 84 RCW for railroad operating properties, which shall provide tax credits for railroad

participation in rail service preservation or improvement projects implemented on the light density line system.

NEW SECTION. Sec. 10. MONITORING FEDERAL RAIL POLICIES. The department of transportation shall continue to monitor federal rail policies and congressional action and communicate to Washington's congressional delegation and federal transportation agencies the need for a balanced transportation system and associated funding.

Sec. 11. Section 6, chapter 303, Laws of 1983 as amended by section 64, chapter 57, Laws of 1985 and by section 2, chapter 432, Laws of 1985 and RCW 47.76.030 are each reenacted and amended to read as follows:

(1) The essential rail assistance account is hereby created in the state treasury. Moneys in the account may be appropriated only for the purposes specified in this section.

(2) Moneys ~~((in))~~ appropriated from the account to the department of transportation may be distributed by the department to first class cities, county rail districts and port districts for the purpose of:

(a) Acquiring, maintaining, or improving branch rail lines; ~~((or))~~
 (b) Operating railroad equipment necessary to maintain essential rail service;

(c) Construction of transloading facilities to increase business on light density lines or to mitigate the impacts of abandonment; or

(d) Preservation, including operation, of viable light density lines, as identified by the Washington state department of transportation, in compliance with this chapter.

~~(3) ((Moneys in the account may be distributed to the department to purchase unused rail right of way that meets the following criteria:~~

~~(a) The right of way has been identified, evaluated, and analyzed in the state rail plan prepared pursuant to RCW 47.76.020;~~

~~(b) The right of way has been abandoned and is available for acquisition;~~

~~(c) The right of way has potential for future rail service; and~~

~~(d) Reestablishment of rail service in the future would benefit the state of Washington.~~

~~The department may exercise its authority to use moneys in the account for the purposes of this subsection only with legislative appropriation for this purpose or upon receipt of a donation of funds sufficient to cover the property acquisition and management costs. The department may receive donations of funds for this purpose, which shall be conditioned upon, and made in consideration for the repurchase rights contained in RCW 47.76.040. Nothing in this section shall be interpreted or applied so as to impair the reversionary rights of abutting landowners, if any, without just compensation.~~

~~(4))~~ First class cities, county rail districts and port districts may grant franchises to private railroads for the right to operate on lines acquired, repaired, or improved under this chapter.

(4) If rail lines or rail rights of way are used by county rail districts, port districts, state agencies, or other public agencies for the purposes of rail operations and are later abandoned, the rail lines or rail rights of way cannot be used for any other purposes without the consent of the underlying fee title holder or reversionary rights holder, or compensation has been made to the underlying fee title holder or reversionary rights holder.

(5) Moneys distributed under subsection (2) of this section shall not exceed eighty percent of the cost of the service or project undertaken. At least twenty percent of the cost shall be provided by the first class city, county, port district, or other local sources.

(6) The amount distributed under this section shall be repaid to the state by the first class city, county rail district or port district. The repayment shall occur within ~~((ten years))~~ a period not longer than fifteen years, as set by the department, of the distribution of the moneys and shall be deposited in the essential rail assistance account. The repayment schedule and rate of interest, if any, shall be set at the time of the distribution of the moneys.

(7) All earnings of investments of balances in the essential rail assistance account shall be credited to ~~((the general fund))~~ that account except as provided in RCW 43.84.090 and 43.84.092.

PART II

HIGH OCCUPANCY VEHICLE LANE DEVELOPMENT

NEW SECTION. Sec. 12. PURPOSE FOR ACCELERATING HIGH OCCUPANCY VEHICLE SYSTEM DEVELOPMENT AND UTILIZATION. The need for mobility, growing travel demand, and increasing traffic congestion in urban areas necessitate accelerated development and increased utilization of the high occupancy vehicle system. Sections 14 and 17 of this act provide taxing authority that counties can use in the near term to accelerate development and increase utilization of the high occupancy vehicle system by supplementing available federal, state, and local funds.

NEW SECTION. Sec. 13. DEFINITIONS. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 12 through 21 of this act.

(1) "Transit agency" means a city that operates a transit system, a public transportation benefit area, a county transportation authority, or a metropolitan municipal corporation.

(2) The "high occupancy vehicle system" includes high occupancy vehicle lanes, related high occupancy vehicle facilities, and high occupancy vehicle programs.

(3) "High occupancy vehicle lanes" mean lanes reserved for public transportation vehicles only or public transportation vehicles and private vehicles carrying no fewer than a specified number of passengers under RCW 46.61.165.

(4) "Related facilities" means park and ride lots, park and pool lots, ramps, bypasses, turnouts, signal preemption, and other improvements designed to maximize use of the high occupancy vehicle system.

(5) "High occupancy vehicle program" means advertising the high occupancy vehicle system, promoting carpool, vanpool, and transit use, providing vanpool vehicles, and enforcement of driving restrictions governing high occupancy vehicle lanes.

NEW SECTION. Sec. 14. **EMPLOYER TAX.** (1) A class AA county or a class A county adjoining a class AA county having within its boundaries existing or planned high occupancy vehicle lanes on the state highway system, may, with voter approval impose an excise tax of up to two dollars per employee per month on all employers or any class or classes of employers, public and private, including the state located in the agency's jurisdiction, measured by the number of full-time equivalent employees. The county imposing the tax authorized in this section may provide for exemptions from the tax to such educational, cultural, health, charitable, or religious organizations as it deems appropriate.

Counties may contract with the state department of revenue or other appropriate entities for administration and collection of the tax. Such contract shall provide for deduction of an amount for administration and collection expenses.

(2) The tax shall not apply to employment of a person when the employer has paid for at least half of the cost of a transit pass issued by a transit agency for that employee, valid for the period for which the tax would otherwise be owed.

(3) A county shall adopt rules which exempt from all or a portion of the tax any employer that has entered into an agreement with the county that is designed to reduce the proportion of employees who drive in single-occupant vehicles during peak commuting periods in proportion to the degree that the agreement is designed to meet the goals for the employer's location adopted under section 15 of this act.

The agreement shall include a list of specific actions that the employer will undertake to be entitled to the exemption. Employers having an exemption from all or part of the tax through this subsection shall annually certify to the county that the employer is fulfilling the terms of the agreement. The exemption continues as long as the employer is in compliance with the agreement.

If the tax authorized in section 17 of this act is also imposed by the county, the total proceeds from both tax sources each year shall not exceed the maximum amount which could be collected under section 17 of this act.

NEW SECTION. Sec. 15. **ADOPTION OF GOALS.** The legislature encourages counties, in conjunction with cities, metropolitan planning organizations, and transit agencies in metropolitan areas to adopt goals for reducing the proportion of commuters who drive in single-occupant vehicles during peak commuting periods. Any county imposing a tax under this chapter must adopt such goals. In adopting these goals, counties shall consider at least the following:

- (1) Existing and anticipated levels of peak-period traffic congestion on roadways used by employees in commuting to work;
- (2) Existing and anticipated levels of transit and vanpool service and carpool programs available to and from the worksite;
- (3) Variations in employment density and employer size;
- (4) Availability and cost of parking; and
- (5) Consistency of the goals with the regional transportation plan.

NEW SECTION. Sec. 16. **SURVEY OF TAX USE.** The department of transportation shall include in the annual transit report under chapter ... (EHB 1438), Laws of 1989 an element describing actions taken under this chapter. On at least two occasions prior to December 31, 1998, the department shall include an evaluation of the effectiveness of such actions.

NEW SECTION. Sec. 17. **EXCISE TAX.** A class AA county and a class A county adjoining a class AA county, having within their boundaries existing or planned high occupancy vehicle lanes on the state highway system may, with voter approval, impose a local surcharge of not more than fifteen percent on the state motor vehicle excise tax paid under RCW 82.44.020(1) on vehicles registered to a person residing within the county. No surcharge may be imposed on vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

Counties imposing a tax under this section shall contract, before the effective date of the resolution or ordinance imposing a surcharge, administration and collection to the state department of licensing, which shall deduct an amount, as provided by contract, for administration and collection expenses incurred by the department. All administrative provisions in chapters 82.03, 82.32, and 82.44 RCW shall, insofar as they are applicable to state motor vehicle excise taxes, be applicable to surcharges imposed under this section.

If the tax authorized in section 14 of this act is also imposed by the county, the total proceeds from both tax sources each year shall not exceed the maximum amount which could be collected under this section.

NEW SECTION. Sec. 18. **HIGH OCCUPANCY VEHICLE ACCOUNT.** Funds collected by the department of revenue or other entity under section 14 of this act, or by the department of licensing under section 17 of this act, less the deduction for collection expenses, shall be deposited in

the high occupancy vehicle account hereby created in the custody of the state treasurer. On the first day of the months of January, April, July, and October of each year, the state treasurer shall distribute the funds in the account to the counties on whose behalf the funds were received. The state treasurer shall make the distribution under this section without appropriation. All earnings of investments of balances in this account shall be credited to this account except as provided in RCW 43.84.090 and 43.84.092.

NEW SECTION. Sec. 19. USE OF FUNDS. Funds collected under section 14 or 17 of this act and any investment earnings accruing thereon shall be used by the county in a manner consistent with the regional transportation plan only for costs of collection, costs of preparing, adopting, and enforcing agreements under section 14(3) of this act, for construction of high occupancy vehicle lanes and related facilities, mitigation of environmental concerns that result from construction or use of high occupancy vehicle lanes and related facilities, payment of principal and interest on bonds issued for the purposes of this section, for high occupancy vehicle programs as defined in section 13(5) of this act, and for commuter rail projects in accordance with section 33 of this act. No funds collected under sections 14 or 17 of this act after June 30, 2000, may be pledged for the payment or security of the principal or interest on any bonds issued for the purposes of this section. Not more than ten percent of the funds may be used for transit agency high occupancy vehicle programs.

Priorities for construction of high occupancy vehicle lanes and related facilities shall be as follows:

(1)(a) To accelerate construction of high occupancy vehicle lanes on the interstate highway system, as well as related facilities;

(b) To finance or accelerate construction of high occupancy vehicle lanes on the noninterstate state highway system, as well as related facilities.

(2) To finance construction of high occupancy vehicle lanes on local arterials, as well as related facilities.

Moneys received by an agency under sections 12 through 21 of this act shall be used in addition to, and not as a substitute for, moneys currently used by the agency for the purposes specified in this section.

Counties may contract with cities or the state department of transportation for construction of high occupancy vehicle lanes and related facilities, and may issue general obligation bonds to fund such construction and use funds received under this chapter to pay the principal and interest on such bonds.

NEW SECTION. Sec. 20. ESTABLISH POLICIES—INTERLOCAL AGREEMENTS. Counties imposing a tax under this chapter shall enter into an agreement through the interlocal cooperation act with the department of transportation. The agreement shall provide an opportunity for the department of transportation, cities and transit agencies having within their boundaries a portion of the existing or planned high occupancy vehicle

system as contained in the regional transportation plan, to coordinate programming and operational decisions affecting the high occupancy vehicle system. If two or more adjoining counties impose a tax under section 14 or 17 of this act, the counties shall jointly enter one interlocal agreement with the department of transportation.

NEW SECTION. Sec. 21. URBAN PUBLIC TRANSPORTATION SYSTEM. The high occupancy vehicle system is an urban public transportation system as defined in RCW 47.04.082.

PART III HIGH CAPACITY SYSTEM DEVELOPMENT

NEW SECTION. Sec. 22. PURPOSE OF STATE HIGH CAPACITY TRANSPORTATION PROGRAM. Increasing congestion on Washington's roadways calls for identification and implementation of high capacity transportation system alternatives. "High capacity transportation system" means a system of transportation services, operating principally on exclusive rights of way, which taken as a whole, provides a substantially higher level of passenger capacity, speed, and service frequency than traditional public transportation systems operating principally on general purpose roadway rights of way. The legislature believes that local jurisdictions should coordinate and be responsible for high capacity transportation policy development, program planning, and implementation. The state should assist by working with local agencies on issues involving rights of way, partially financing projects meeting established state criteria, authorizing local jurisdictions to finance high capacity transportation systems through voter-approved tax options, and providing technical assistance and information.

NEW SECTION. Sec. 23. STATE POLICY ROLES IN DEVELOPMENT OF HIGH CAPACITY TRANSPORTATION SYSTEM ALTERNATIVES. The department of transportation's current policy role in transit is expanded to include other high capacity transportation development as part of a multimodal transportation system.

(1) The department of transportation shall implement a program for high capacity transportation coordination, planning, and technical studies with appropriations from the high capacity transportation account.

(2) The department shall assist local jurisdictions and metropolitan planning organizations with high capacity transportation planning efforts.

NEW SECTION. Sec. 24. HIGH CAPACITY TRANSPORTATION POLICY DEVELOPMENT OUTSIDE CENTRAL PUGET SOUND. (1) In any class A county not bordered by a class AA county and in counties of the first class and smaller, city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas may elect to establish high capacity transportation service. Such agencies shall form a regional policy committee with proportional representation based upon population distribution within the

designated service area and a representative of the department of transportation.

(a) City-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas participating in joint regional policy committees shall seek voter approval within their own service boundaries of a high capacity transportation system plan and an implementation program including a financing program.

(b) An interim regional authority may be formed pursuant to section 25(2) of this act and shall seek voter approval of a high capacity transportation plan and financing program within its proposed service boundaries.

(2) City-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas in counties adjoining state or international boundaries are authorized to participate in the regional high capacity transportation programs of an adjoining state or nation.

NEW SECTION. Sec. 25. HIGH CAPACITY TRANSPORTATION POLICY DEVELOPMENT IN CENTRAL PUGET SOUND. (1) Agencies in a class AA county and in class A counties bordering a class AA county that are currently authorized to provide high capacity transportation planning and operating services, including but not limited to city-owned transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas, must establish through interlocal agreements a joint regional policy committee with proportional representation based upon the population distribution within each agency's designated service area, as determined by the parties to the agreement.

(a) The membership of the joint regional policy committee shall consist of locally elected officials who serve on the legislative authority of the existing transit systems and a representative from the department of transportation. Nonvoting membership for elected officials from adjoining counties may be allowed at the committee's discretion.

(b) The joint regional policy committee shall be responsible for the preparation and adoption of a regional high capacity transportation system plan and an implementation program including a financing package. This plan shall be in conformance with the metropolitan planning organization's regional transportation plan.

(c) Interlocal agreements shall be executed within two years of the effective date of this act. The joint regional policy committee shall present a high capacity transportation plan and local funding program to the boards of directors of the transit agencies within the service area for adoption.

(d) Transit agencies shall present the adopted plan and financing program for voter approval within four years of the execution of the interlocal agreements. A simple majority vote is required for approval of the high capacity transportation plan and financing program in any service district

within each county. Implementation of the program may proceed in any service area approving the plan and program.

(2) If interlocal agreements have not been executed within two years from the effective date of this act, the designated metropolitan planning organization shall convene within one hundred eighty days a conference to be attended by an elected representative selected by the legislative authority of each city and county in a class AA county and in class A counties bordering a class AA county.

(a) Public notice of the conference shall occur thirty days before the date of the conference.

(b) The purpose of the conference is to evaluate the need for developing high capacity transportation service in a class AA county and in class A counties bordering a class AA county and to determine the desirability of a regional approach to developing such service.

(c) The conference may elect to continue high capacity transportation efforts on a subregional basis through existing transit planning and operating agencies.

(d) The conference may elect to pursue regional development by creating a multicounty interim regional high capacity transportation authority. Conference members shall determine the structure and composition of any interim regional authority.

(i) The interim regional authority shall propose a permanent authority or authorities for voter approval. Permanent regional authorities shall become the responsible agencies for planning, construction, operations, and funding of high capacity transportation systems within their service boundaries. Funding sources for a regional high capacity transportation authority or authorities are separate from currently authorized funding sources for city-owned transit systems, county transportation authorities, metropolitan municipal authorities, or public transportation benefit areas.

(ii) State and local jurisdictions, county transportation authorities, metropolitan municipal corporations, or public transportation benefit areas shall retain responsibility for existing facilities and/or services, unless the responsibility is transferred to the high capacity transportation authority or authorities by interlocal agreement.

(3) If, within four years of the execution of the interlocal agreements, a high capacity transportation plan and financing program has been approved by a simple majority vote within a participating jurisdiction, that jurisdiction may proceed with high capacity transportation development. If within four years of the execution of the interlocal agreements, a high capacity transportation plan and program has not been approved by a simple majority vote within one or more of the participating jurisdictions, the joint regional policy committee shall convene within one hundred eighty days, a conference to be attended by participating jurisdictions within which a plan and financing program have not been approved. Such a conference shall be

for the same purpose and shall be subject to the same conditions as described in subsection (2) of this section.

(4) High capacity transportation service planning, construction, operations, and funding shall be governed through the interlocal agreement process, including but not limited to provision for a cost allocation and distribution formula, service corridors, station area locations, right of way transfers, and feeder transportation systems. The interlocal agreement shall include a mechanism for resolving conflicts among parties to the agreement.

NEW SECTION. Sec. 26. **EXPANSION OF HIGH CAPACITY TRANSPORTATION SERVICE BOUNDARIES.** Regional high capacity transportation service boundaries may be expanded beyond the established service district through interlocal agreements among the transit agencies.

NEW SECTION. Sec. 27. **STATE ROLE IN HIGH CAPACITY TRANSPORTATION PROGRAM PLANNING AND IMPLEMENTATION.** The state's planning role in high capacity transportation development as one element of a multimodal transportation system should facilitate cooperative state and local planning efforts.

(1) The department of transportation may serve as a contractor for high capacity transportation system design, administer construction, and assist agencies authorized to provide service in the acquisition, preservation, and joint use of rights of way.

(2) The department and local jurisdictions shall continue to cooperate with respect to the development of park-and-ride facilities, associated roadways, transfer stations, people mover systems developed either by the public or private sector, and other related projects.

(3) The department in cooperation with local jurisdictions shall develop policies which enhance the development of high speed intercity systems by both the private and the public sector. These policies may address joint use of rights of way, identification and preservation of transportation corridors, and joint development of stations and other facilities.

NEW SECTION. Sec. 28. **RESPONSIBILITY FOR HIGH CAPACITY TRANSPORTATION SYSTEM IMPLEMENTATION.** (1) The state shall not become an operating agent for regional high capacity transportation systems.

(2) Agencies providing high capacity transportation service are responsible for planning, construction, operations, and funding including station area design and development, and parking facilities. Agencies may implement necessary contracts, joint development agreements, and interlocal government agreements. Agencies providing service shall consult with affected local jurisdictions and cooperate with comprehensive planning processes.

NEW SECTION. Sec. 29. REGIONAL TRANSPORTATION PLANNING. Regional transportation plans should be considered in adopting local land use plans. Regional transportation plans and local land use plans should address the impacts of urban growth on effective high capacity transportation planning and development, and provide for cooperation between local jurisdictions and transit agencies.

(1) Regional high capacity transportation plans shall be included in the designated metropolitan planning organization's regional transportation plan review and update process to facilitate development of a coordinated multimodal transportation system and to meet federal funding requirements.

(2) The state and local jurisdictions shall cooperate in encouraging land uses compatible with development of high capacity transportation systems. These include developing sufficient land use densities through local actions in high capacity transportation corridors and near passenger stations, preserving transit rights of way, and protecting the region's environmental quality. In developing local actions intended to carry out these policies local governments shall insure the opportunity for public comment and participation in the siting of such facilities, including stations or transfer facilities. Agencies providing high capacity transportation services, in cooperation with public and private interests, shall promote transit-compatible land uses and development which includes joint development.

(3) Agencies providing high capacity transportation service and transit agencies shall develop a cooperative process for the planning, development, operations, and funding of feeder transportation systems. Feeder systems may include existing and future intercity passenger systems and alternative technology people mover systems which may be developed by the private or public sector.

(4) Jurisdictions, working through their designated metropolitan planning organizations, shall manage a right of way preservation review process which includes activities to promote the preservation of the high capacity transportation rights of way.

(a) Jurisdictions shall forward all development proposals for projects within and adjoining to the rights of way proposed for preservation to the designated metropolitan planning organizations, which shall distribute the proposals for local and regional agency review.

(b) The metropolitan planning organizations shall also review proposals for conformance with the regional transportation plan and associated regional development strategies. The designated metropolitan planning organization shall within ninety days compile local and regional agency comments and communicate the same to the originating jurisdiction and the joint regional policy committee or, if established, a regional high capacity transportation authority.

NEW SECTION. Sec. 30. DEPARTMENT OF TRANSPORTATION RESPONSIBILITIES. The department of transportation shall, upon dissolution of the rail development commission, assume responsibility for distributing amounts appropriated from the high capacity transportation account and shall prioritize funding requests based on criteria in subsection (3) of this section.

(1) The department shall establish an advisory council of policy and technical experts pursuant to RCW 47.01.091 to assist in the review of requests for high capacity transportation account funds. The council shall be comprised of one representative from each congressional district, a designee of the governor, the executive director or a designee of the transportation improvement board, the director of the Washington state transportation center, and the chair or designee of the legislative transportation committee.

(2) State high capacity transportation account funds may provide up to eighty percent matching assistance for high capacity transportation planning efforts and for support of interim regional high capacity transportation authorities.

(3) Authorizations for state funding for high capacity transportation planning projects shall be subject to the following criteria:

(a) Conformance with the designated metropolitan planning organization's regional transportation plan;

(b) Local matching funds;

(c) Demonstration of projected improvement in regional mobility;

(d) Conformance with planning requirements prescribed in section 31 of this act, and if five hundred thousand dollars or more in state funding is requested, conformance with the requirements of section 32 of this act; and

(e)(i) Establishment, through interlocal agreements, of a regional policy committee with proportional representation based upon population distribution within each agency's designated service area as defined in section 24 of this act;

(ii) Establishment of a demonstrated regional agreement through a multijurisdictional conference to pursue high capacity transportation development on a subregional basis through established transit planning and operating agencies as defined in section 25 of this act; or

(iii) Establishment, through a multijurisdictional conference, of an interim high capacity transportation authority as defined in section 25 of this act.

(4) The department of transportation shall provide general review and monitoring of the planning process prescribed in section 31 of this act.

NEW SECTION. Sec. 31. PLANNING PROCESS. To assure the adoption of an effective high capacity transportation system, local authorities shall follow the following planning process:

(1) System planning is the ongoing urban transportation planning process conducted in each urbanized area by its metropolitan planning organization. During this process, regional transportation goals are identified, travel patterns are analyzed, and future land use and travel are projected. The system planning process provides a comprehensive view of the region's transportation needs but does not select a specified mode to serve those needs. System planning shall identify a priority corridor for further study of high capacity transportation facilities if it is deemed feasible by local officials.

(2)(a) Project planning is the detailed evaluation of a range of transportation options, including (i) do nothing, (ii) low capital, and (iii) ranges of higher capital facilities.

(b) Project planning shall proceed as follows:

(i) Organization and management. The responsible local transit agency or agencies shall define roles for various local agencies, review background information, provide for public involvement, and develop a detailed work plan for the project planning process.

(ii) Development of options. Options to be studied shall be developed to ensure an appropriate range of technologies and service policies can be evaluated. A do-nothing option and a low capital option that maximizes the current system shall be developed. Several higher capital options that consider several candidate technologies shall be developed.

(iii) Analysis methods. The local transit agency shall develop reports describing the analysis and assumptions for the estimation of capital costs, operating and maintenance costs, methods for travel forecasting, a financial plan and an evaluation methodology.

(iv) Study of options. The local transit agency shall use the methods described in (iii) of this subsection to produce impact information needed for project evaluation and for the preparation of an environmental impact statement. The impact evaluation shall address the impact that such a project will have on abutting or nearby residential or commercial property owners. The process of identification of corridors shall include notification of affected property owners by normal legal publication. At minimum, such notification shall include notice on the same day for at least three weeks in at least two newspapers of general circulation in the county where such project is proposed. Special notice of hearings by the conspicuous posting of notice, in a manner designed to attract public attention, in the vicinity of areas identified for station locations or transfer sites shall also be provided.

(v) Review and monitor. The department of transportation shall provide project review and monitoring in cooperation with the expert review panel identified in section 32 of this act. In addition, the local transit agency shall maintain a continuous public involvement program and seek involvement of other government agencies.

(vi) Detailed planning process. In order to increase the likelihood of future federal funding, the system and project planning processes shall follow the urban mass transportation administration's requirements as described in "Procedures and Technical Methods for Transit Project Planning", published by the United States department of transportation, urban mass transportation administration, September 1986, or the most recent edition. Nothing in this subsection shall be construed to preclude detailed evaluation of more than one corridor in the planning process.

NEW SECTION. Sec. 32. INDEPENDENT PROJECT OVERSIGHT. The legislature recognizes that the planning process described in section 31 of this act provides a recognized framework for guiding high capacity transportation studies. However, the process cannot guarantee appropriate transit decisions unless key study assumptions are reasonable.

To assure appropriate project assumptions and to provide for review of project results, the department of transportation shall develop independent oversight procedures which are appropriate to the scope of any project for which high capacity transportation account funds are requested.

An expert review panel shall be appointed to provide independent technical review for any project which is to be funded in whole or in part by the imposition of any voter-approved local option funding sources enumerated in section 35 of this act.

(1) The expert review panel shall consist of ten members who are recognized experts in relevant fields, such as transit operations, planning, emerging transportation technologies, engineering, finance, law, the environment, geography, economics, and political science.

(2) The expert review panel shall be selected cooperatively by the chair of the legislative transportation committee, the secretary of the department of transportation, and the governor to assure a balance of disciplines.

(3) The chair of the expert review panel shall be designated by the appointing body.

(4) The expert review panel shall serve without compensation but shall be reimbursed for expenses according to chapter 43.03 RCW.

(5) Funds appropriated for expenses of the expert panel shall be administered by the department of transportation.

(6) The expert panel shall review all reports required in section 31(2)(b)(vi) of this act but shall concentrate on service modes and concepts, costs, patronage, financing, and project evaluation.

(7) The expert panel shall provide timely reviews and comments on individual project reports and study conclusions to the governor, the legislative transportation committee, the department of transportation, and the submitting lead transit agency.

(8) The legislative transportation committee shall contract for consulting services for expert review panels. The amount of consultant support

shall be negotiated with each expert review panel by the legislative transportation committee and shall be paid from the high capacity transportation account.

NEW SECTION. Sec. 33. COMMUTER RAIL SERVICE. (1) City-owned transit service, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas may operate or contract for commuter rail service where it is deemed to be a reasonable alternative transit mode.

(2) A county may use funds collected under section 14 or 17 of this act to contract with one or more transit agencies for planning, operation, and maintenance of commuter rail projects which: (a) Are consistent with the regional transportation plan; (b) have met the project planning and oversight requirements of sections 31 and 32 of this act; and (c) have been approved by the voters within the service area of each transit agency participating in the project. The phrase "approved by the voters" includes specific funding authorization for the commuter rail project.

(3) The utilities and transportation commission shall maintain safety responsibility for passenger rail service operating on freight rail lines. Agencies providing passenger rail service on lines other than freight rail lines shall maintain safety responsibility for that service.

NEW SECTION. Sec. 34. FINANCIAL RESPONSIBILITY. Agencies providing high capacity transportation service shall determine optimal debt-to-equity ratios, establish capital and operations allocations, and establish fare-box recovery return policy.

NEW SECTION. Sec. 35. FINANCING FOR HIGH CAPACITY TRANSPORTATION PROGRAMS. (1) Agencies authorized to provide high capacity transportation service, including city-owned transit systems, county transportation authorities, metropolitan municipal corporations and public transportation benefit areas, are hereby granted dedicated funding sources for such systems. These dedicated funding sources, as set forth in sections 41, 42, and 43 of this act, are authorized only for agencies located in class AA counties, class A counties, counties of the first class which border another state, and counties which, on the effective date of this act, are of the second class and which adjoin class A counties.

(2) Agencies providing high capacity transportation service should also seek other funds, including federal, state, local, and private sector assistance.

(3) Funding sources should satisfy each of the following criteria to the greatest extent possible:

- (a) Acceptability;
- (b) Ease of administration;
- (c) Equity;
- (d) Implementation feasibility;

(e) Revenue reliability; and

(f) Revenue yield.

(4) Agencies participating in regional high capacity transportation system development through interlocal agreements or a conference-approved interim regional rail authority or subregional process as defined in section 25 of this act are authorized to levy and collect the following voter-approved local option funding sources:

(a) Employer tax as provided in section 41 of this act;

(b) Special motor vehicle excise tax as provided in section 42 of this act; and

(c) Sales and use tax as provided in section 43 of this act.

Revenues from these taxes may be used only to support those purposes prescribed in subsection (8) of this section. Before an agency may impose any of the taxes enumerated in this section and authorized in sections 41, 42, and 43 of this act, it must comply with the process prescribed in sections 31 and 32 of this act.

(5) Authorization in subsection (4) of this section shall not adversely affect the funding authority of existing transit agencies. Local option funds may be used to support implementation of interlocal agreements with respect to the establishment of regional high capacity transportation service. Local jurisdictions shall retain control over moneys generated within their boundaries, although funds may be commingled for planning, construction, and operation of high capacity transportation systems as set forth in the agreements.

(6) Agencies providing high capacity transportation service may contract with the state for collection and transference of local option revenue.

(7) Dedicated high capacity transportation funding shall be subject to voter approval by a simple majority.

(8) Agencies providing high capacity transportation service shall retain responsibility for revenue encumbrance, disbursement, and bonding. Funds may be used for any purpose relating to planning, construction, and operation of high capacity transportation, commuter rail, and feeder transportation systems.

PART IV AMTRAK ACTIVITIES

NEW SECTION. Sec. 36. AMTRAK. The department, in conjunction with local jurisdictions, shall coordinate as appropriate with the designated metropolitan planning organizations to develop a program for improving Amtrak passenger rail service. The program may include:

(1) Determination of the appropriate level of Amtrak passenger rail service;

(2) Implementation of higher train speeds for Amtrak passenger rail service, where safety considerations permit;

(3) Recognition, in the state's long range planning process, of potential higher speed intercity passenger rail service, while monitoring socioeconomic and technological conditions as indicators for higher speed systems; and

(4) Identification of existing intercity rail rights of way which may be used for public transportation corridors in the future.

NEW SECTION. Sec. 37. AMTRAK DEPOTS. The department shall, when feasible, assist local jurisdictions in upgrading Amtrak depots. Multimodal use of these facilities shall be encouraged.

NEW SECTION. Sec. 38. AMTRAK SERVICE EXTENSION. (1) The department, in conjunction with local jurisdictions, shall coordinate as appropriate with designated metropolitan and provincial transportation organizations to pursue resumption of Amtrak service from Seattle to Vancouver, British Columbia, via Everett, Mount Vernon, and Bellingham.

(2) The department, in conjunction with local jurisdictions, shall study potential Amtrak service on the following routes:

(a) Daytime Spokane–Wenatchee–Everett–Seattle service;

(b) Daytime Spokane–Tri–Cities–Vancouver–Portland service;

(c) Tri–Cities–Yakima–Ellensburg–Seattle service, if the Stampede Pass route is reopened; and

(d) More frequent Portland–Vancouver–Kelso–Centralia–Olympia–Tacoma–Seattle service or increments thereof.

NEW SECTION. Sec. 39. AMTRAK COORDINATION. The department, with other state and local agencies shall coordinate as appropriate with designated metropolitan planning organizations to provide public information with respect to common carrier passenger transportation. This information may include maps, routes, and schedules of passenger rail service, local transit agencies, air carriers, private ground transportation providers, and international, state, and local ferry services.

The state shall continue its cooperative relationship with Amtrak and Canadian passenger rail systems.

NEW SECTION. Sec. 40. AMTRAK SERVICE. The department, in conjunction with local jurisdictions, shall recommend to the legislature the appropriate level, source, and justification for funding of improved Amtrak passenger rail service.

PART V

HIGH CAPACITY FUNDING AUTHORIZATIONS

NEW SECTION. Sec. 41. EMPLOYER TAX FOR HIGH CAPACITY TRANSPORTATION SERVICE. Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas, solely for the purpose of providing high capacity transportation service may submit an authorizing proposition to the voters and if approved may impose an excise tax of up to two dollars per

month on all employers located within the agency's jurisdiction, measured by the number of full-time equivalent employees. The rate of tax shall be approved by the voters. This tax may not be imposed by an agency when the county within which it is located is imposing an excise tax pursuant to section 14 of this act. The agency imposing the tax authorized in this section may provide for exemptions from the tax to such educational, cultural, health, charitable, or religious organizations as it deems appropriate.

NEW SECTION. Sec. 42. **MOTOR VEHICLE EXCISE TAX FOR HIGH CAPACITY TRANSPORTATION SERVICE.** Any city that operates a transit system, county transportation authority, metropolitan municipal corporation, or public transportation benefit area, solely for the purpose of providing high capacity transportation service may submit an authorizing proposition to the voters, and if approved, may levy and collect an excise tax, at a rate approved by the voters, but not exceeding eighty one-hundredths of one percent on the value, under chapter 82.44 RCW, of every motor vehicle owned by a resident of such city, county transportation authority, metropolitan municipal corporation, or public transportation benefit area. In any county imposing a motor vehicle excise tax surcharge pursuant to section 17 of this act, the maximum tax rate under this section shall be reduced to a rate equal to eighty one-hundredths of one percent on the value less the equivalent motor vehicle excise tax rate of the surcharge imposed pursuant to section 17 of this act. This authority may be exercised only if all local agencies which are parties to an interlocal agreement or members of a regional authority under section 25 of this act are imposing the tax at the same rate. This rate shall not apply to vehicles licensed under RCW 46.16.070 except vehicles with an unladen weight of six thousand pounds or less, RCW 46.16.079, 46.16.080, 46.16.085, or 46.16.090.

NEW SECTION. Sec. 43. **SALES AND USE TAXES FOR HIGH CAPACITY TRANSPORTATION SERVICE.** The legislative bodies of cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas, solely for the purpose of providing high capacity transportation service may submit an authorizing proposition to the voters and if approved by a majority of persons voting, fix and impose a sales and use tax in accordance with the terms of this chapter.

The tax authorized pursuant to this section shall be in addition to the tax authorized by RCW 82.14.030 and shall be collected from those persons who are taxable by the state pursuant to chapters 82.08 and 82.12 RCW upon the occurrence of any taxable event within such city, county transportation authority, metropolitan municipal corporation, or public transportation benefit area, as the case may be. The rate of such tax shall be approved by the voters and shall not exceed one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax).

NEW SECTION. Sec. 44. **BOND RETIREMENT FOR HIGH CAPACITY TRANSPORTATION SERVICE.** Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas are authorized to pledge revenues from the employer tax authorized by section 41 of this act, the special motor vehicle excise tax authorized by section 42 of this act, and the sales and use tax authorized by section 43 of this act, to retire bonds issued solely for the purpose of providing high capacity transportation service.

NEW SECTION. Sec. 45. **CONTRACT FOR COLLECTION OF TAXES.** Cities that operate transit systems, county transportation authorities, metropolitan municipal corporations, and public transportation benefit areas may contract with the state department of revenue or other appropriate entities for administration and collection of any tax authorized by sections 41, 42, and 43 of this act.

PART VI

HIGH CAPACITY TRANSPORTATION ACCOUNT

NEW SECTION. Sec. 46. **HIGH CAPACITY TRANSPORTATION ACCOUNT REVIEW.** The department of transportation shall review the high capacity transportation account funding sources and allocation formula and propose any appropriate changes to the 1991 legislature.

Sec. 47. Section 1, chapter 428, Laws of 1987 and RCW 47.78.010 are each amended to read as follows:

There is hereby established in the state treasury the (~~(rail development)~~) high capacity transportation account. Money in the account shall be used, after appropriation, for local (~~((rail passenger and))~~) high capacity transportation purposes including rail freight (~~((purposes))~~). All earnings of investments of any balances in the (~~(rail development)~~) high capacity transportation account shall be credited to the (~~(rail development)~~) account except as provided in RCW 43.84.090 and 43.84.092.

**Sec. 48. Section 1, chapter 18, Laws of 1988 and RCW 82.44.150 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, commencing with November, 1971, advise the state treasurer of the total amount of motor vehicle excise taxes remitted to the department of licensing during the preceding calendar quarter ending on the last day of March, June, September, and December, respectively, except for those payable under RCW 82.44.020(6) and 82.44.030, from motor vehicle owners residing within each municipality which has levied a tax under RCW 35.58.273, which amount of excise taxes shall be determined by the director as follows:

The total amount of motor vehicle excise taxes remitted to the department, except those payable under RCW 82.44.020(6) and 82.44.030, from

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

(2) On the first day of the months of January, April, July, and October of each year, the state treasurer based upon information provided by the department of licensing shall make the following apportionment and distribution of motor vehicle excise taxes deposited in the general fund except taxes collected under RCW 82.44.020(6). A sum equal to seventeen percent thereof shall be paid to cities and towns in the proportions and for the purposes hereinafter set forth; a sum equal to two percent thereof shall be allocable to the county sales and use tax equalization account under RCW 82.14.200; and a sum equal to four and two-tenths percent of the special excise tax levied under RCW 35.58.273 by those municipalities authorized to levy a special excise tax at a rate not exceeding ninety-six one-hundredths of one percent on the fair market value of every motor vehicle owned by a resident of such municipality shall be deposited in the ((rail development)) high capacity transportation account established in RCW 47.78.010.

(3) The amount payable to cities and towns shall be apportioned among the several cities and towns within the state according to the following formula:

(a) Sixty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned ratably on the basis of population as last determined by the office of financial management.

(b) Thirty-five percent of the sum specified in subsection (2) of this section to be paid to cities and towns shall be apportioned to cities and towns under RCW 82.14.210.

(4) When so apportioned, the amount payable to each such city and town shall be transmitted to the city treasurer thereof, and shall be utilized by such city or town for the purposes of police and fire protection and the preservation of the public health therein, and not otherwise. In case it be adjudged that revenue derived from the excise tax imposed by this chapter cannot lawfully be apportioned or distributed to cities or towns, all moneys directed by this section to be apportioned and distributed to cities and towns shall be credited and transferred to the state general fund.

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

(a) The amount required to be remitted by the state treasurer to the treasurer of any municipality levying the tax shall not exceed in any calendar year the amount of locally-generated tax revenues, excluding the excise tax imposed under RCW 35.58.273 for the purposes of this section, which shall have been budgeted by the municipality to be collected in such calendar year for any public transportation purposes including but not limited to operating costs, capital costs, and debt service on general obligation or revenue bonds issued for these purposes; and

(b) In no event may the amount remitted in a single calendar quarter exceed the amount collected on behalf of the municipality under RCW 35.58.273 during the calendar quarter next preceding the immediately preceding quarter.

(6) At the close of each calendar year accounting period, but not later than April 1, each municipality that has received motor vehicle excise taxes under subsection (5) of this section shall transmit to the director of licensing and the state auditor a written report showing by source the previous year's budgeted tax revenues for public transportation purposes as compared to actual collections. Any municipality that has not submitted the report by April 1 shall cease to be eligible to receive motor vehicle excise taxes under subsection (5) of this section until the report is received by the director of licensing. If a municipality has received more or less money under subsection (5) of this section for the period covered by the report than it is entitled to receive by reason of its locally-generated collected tax revenues, the director of licensing shall, during the next ensuing quarter that the municipality is eligible to receive motor vehicle excise tax funds, increase or decrease the amount to be remitted in an amount equal to the difference between the locally-generated budgeted tax revenues and the locally-generated collected tax revenues. In no event may the amount remitted for a calendar year exceed the amount collected on behalf of the municipality under RCW 35.58.273 during that same calendar year. At the time of the next fiscal audit of each municipality, the state auditor shall verify the accuracy of the report submitted and notify the director of licensing of any discrepancies.

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

(8) Any municipality levying and collecting a tax under RCW 35.58.273 which does not have an operating, public transit system or a contract for

public transportation services in effect within one year from the initial effective date of the tax shall return to the state treasurer all motor vehicle excise taxes received under subsection (5) of this section.

*Sec. 48 was vetoed, see message at end of chapter.

PART VII
MISCELLANEOUS

Sec. 49. Section 35.92.060, chapter 7, Laws of 1965 as last amended by section 10, chapter 445, Laws of 1985 and RCW 35.92.060 are each amended to read as follows:

A city or town may also construct, condemn and purchase, purchase, acquire, add to, alter, maintain, operate, or lease cable, electric, and other railways, automobiles, motor cars, motor buses, auto trucks, and any and all other forms or methods of transportation of freight or passengers within the corporate limits of the city or town and a first class city may operate such forms or methods of transportation beyond the corporate limits of the city but not beyond the boundaries of the county in which the city is located, for the transportation of freight and passengers above, upon, or underneath the ground. It may also fix, alter, regulate, and control the fares and rates to be charged therefor; and fares or rates may be adjusted or eliminated for any distinguishable class of users including, but not limited to, senior citizens, handicapped persons, and students. Without the payment of any license fee or tax, or the filing of a bond with, or the securing of a permit from, the state, or any department thereof, the city or town may engage in, carry on, and operate the business of transporting and carrying passengers or freight for hire by any method or combination of methods that the legislative authority of any city or town may by ordinance provide, with full authority to regulate and control the use and operation of vehicles or other agencies of transportation used for such business.

NEW SECTION. Sec. 50. The legislative transportation committee shall study the issues associated with public and private acquisition of abandoned rail corridors and rail corridors banked for future rail use as provided for under state and federal law respectively. The committee shall report its findings and recommendations to the senate and house transportation committees by December 1, 1990.

NEW SECTION. Sec. 51. Sections 1 through 10 of this act are each added to chapter 47.76 RCW.

NEW SECTION. Sec. 52. Sections 12 through 21 of this act shall constitute a new chapter in Title 81 RCW.

NEW SECTION. Sec. 53. Sections 22 through 35 and 41 through 45 of this act shall constitute a new chapter in Title 81 RCW.

NEW SECTION. Sec. 54. Sections 36 through 40 of this act shall constitute a new chapter in Title 47 RCW.

NEW SECTION. Sec. 55. Section headings, part headings, and the index as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 56. This act shall be liberally construed to give effect to the intent of this act.

NEW SECTION. Sec. 57. 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. 58. 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 5, 1990.

Passed the Senate March 3, 1990.

Approved by the Governor March 14, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 14, 1990.

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

"I am returning herewith, without my approval as to section 48, Engrossed Substitute House Bill No. 1825 entitled:

"AN ACT Relating to high capacity transportation systems."

Section 48 changes a reference in current law from "rail development" account to "high capacity transportation" account. Section 308(2)(a) of Engrossed Substitute Senate Bill No. 6358, an act relating to transportation taxes, amends the same section of current law in a similar manner and makes additional revisions. In order to avoid duplicative amendments, I am vetoing section 48.

With the exception of section 48, Engrossed Substitute House Bill No. 1825 is approved."

CHAPTER 44

[Substitute Senate Bill No. 6167]

MOTOR VEHICLES—UNLAWFUL TRANSFER OF SUBLEASING OF

AN ACT Relating to unlawful subleasing or transferring of an ownership interest in motor vehicles; amending RCW 46.70.180; adding a new chapter to Title 19 RCW; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that the practices of unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles have a substantial negative impact on the state's financial institutions and other businesses engaged in the financing and leasing of motor vehicles.

NEW SECTION. Sec. 2. The legislature finds that the practice of unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles is a matter vitally affecting the public interest for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

NEW SECTION. Sec. 3. The definitions set forth in this section apply throughout this chapter, unless the context requires otherwise:

(1) "Debtor" has the meaning set forth in RCW 62A.9-105(1)(d).

(2) "Motor vehicle" means a vehicle required to be registered under chapter 46.16 RCW.

(3) "Person" means an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(4) "Security agreement" has the meaning set forth in RCW 62A.9-105(1)(l).

(5) "Security interest" has the meaning set forth in RCW 62A.1-201(37).

(6) "Secured party" has the meaning set forth in RCW 62A.9-105(1)(m).

NEW SECTION. Sec. 4. Unlawful subleasing or unlawful transfer of an ownership interest in motor vehicles are not reasonable in relation to the development and preservation of business. A violation of this chapter is an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW.

NEW SECTION. Sec. 5. (1) It is a violation of this chapter for a vehicle dealer, as defined in RCW 46.70.011(3), to engage in the unlawful transfer of an ownership interest in motor vehicles.

(2) It is a violation of this chapter for a person to engage in the unlawful subleasing of motor vehicles.

NEW SECTION. Sec. 6. A dealer engages in an act of unlawful transfer of ownership interest in motor vehicles when all of the following circumstances are met:

(1) The dealer does not pay off any balance due to the secured party on a vehicle acquired by the dealer, no later than the close of the second business day after the acquisition date of the vehicle; and

(2) The dealer does not obtain a certificate of ownership under RCW 46.12.140 for each used vehicle kept in his or her possession unless that certificate is in the possession of the person holding a security interest in the dealer's inventory; and

(3) The dealer does not transfer the certificate of ownership after the transferee has taken possession of the motor vehicle.

NEW SECTION. Sec. 7. A person engages in an act of unlawful subleasing of a motor vehicle if all of the following conditions are met:

(1) The motor vehicle is subject to a lease contract or security agreement the terms of which prohibit the transfer or assignment of any right or

interest in the motor vehicle or under the lease contract or security agreement; and

(2) The person is not a party to the lease contract or security agreement; and

(3) The person transfers or assigns or purports to transfer or assign any right or interest in the motor vehicle or under the lease contract or security agreement to any person who is not a party to the lease contract or security agreement; and

(4) The person does not obtain, before the transfer or assignment described in subsection (3) of this section, written consent to the transfer or assignment from the motor vehicle lessor in connection with a lease contract or from the secured party in connection with a security agreement; and

(5) The person receives compensation or some other consideration for the transfer or assignment described in subsection (3) of this section.

NEW SECTION. Sec. 8. (1) A person engages in an act of unlawful subleasing of a motor vehicle when the person is not a party to the lease contract or security agreement, and assists, causes, or arranges an actual or purported assignment as described in section 7 of this act.

(2) A dealer engages in an act of unlawful transfer of an ownership interest in a motor vehicle when the dealer is not a party to the security agreement, and assists, causes, or arranges an actual or purported transfer as described in section 6 of this act.

NEW SECTION. Sec. 9. Unlawful subleasing or unlawful transfer of an ownership interest in a motor vehicle is a class C felony punishable under chapter 9A.20 RCW.

NEW SECTION. Sec. 10. A violation of this chapter constitutes an act of criminal profiteering, as defined in RCW 9A.82.010.

NEW SECTION. Sec. 11. (1) Any one or more of the following persons who suffers damage proximately resulting from one or more acts of unlawful motor vehicle subleasing or unlawful transfer of an ownership interest in a motor vehicle may bring an action against the person who has engaged in those acts:

(a) A secured party;

(b) A debtor;

(c) A lessor;

(d) A lessee;

(e) An actual or purported transferee or assignee;

(f) A guarantor of a lease or security agreement or a guarantor of a purported transferee or assignee.

(2) In an action for unlawful subleasing or unlawful transfer of an ownership interest in a motor vehicle the court may award actual damages; equitable relief, including, but not limited to an injunction and restitution of

money and property; reasonable attorneys' fees and costs; and any other relief that the court deems proper.

NEW SECTION. Sec. 12. (1) The actual or purported transfer or assignment, or the assisting, causing, or arranging of an actual or purported transfer or assignment, of any right or interest in a motor vehicle or under a lease contract or security agreement, by an individual who is a party to the lease contract or security agreement is not an act of unlawful subleasing of or unlawful transfer of an ownership interest in a motor vehicle and is not subject to prosecution.

(2) This chapter does not affect the enforceability of any provision of a lease contract or security agreement by a party thereto.

NEW SECTION. Sec. 13. The penalties under this chapter are in addition to any other remedies or penalties provided by law for the conduct proscribed by this chapter.

Sec. 14. Section 16, chapter 74, Laws of 1967 ex. sess. as last amended by section 20, chapter 415, Laws of 1989 and RCW 46.70.180 are each amended to read as follows:

Each of the following acts or practices is unlawful:

(1) To cause or permit to be advertised, printed, displayed, published, distributed, broadcasted, televised, or disseminated in any manner whatsoever, any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to the following:

(a) That no down payment is required in connection with the sale of a vehicle when a down payment is in fact required, or that a vehicle may be purchased for a smaller down payment than is actually required;

(b) That a certain percentage of the sale price of a vehicle may be financed when such financing is not offered in a single document evidencing the entire security transaction;

(c) That a certain percentage is the amount of the service charge to be charged for financing, without stating whether this percentage charge is a monthly amount or an amount to be charged per year;

(d) That a new vehicle will be sold for a certain amount above or below cost without computing cost as the exact amount of the factory invoice on the specific vehicle to be sold;

(e) That a vehicle will be sold upon a monthly payment of a certain amount, without including in the statement the number of payments of that same amount which are required to liquidate the unpaid purchase price.

(2) To incorporate within the terms of any purchase and sale agreement any statement or representation with regard to the sale or financing of a vehicle which is false, deceptive, or misleading, including but not limited to terms that include as an added cost to the selling price of a vehicle an amount for licensing or transfer of title of that vehicle which is not actually

due to the state, unless such amount has in fact been paid by the dealer prior to such sale.

(3) To set up, promote, or aid in the promotion of a plan by which vehicles are to be sold to a person for a consideration and upon further consideration that the purchaser agrees to secure one or more persons to participate in the plan by respectively making a similar purchase and in turn agreeing to secure one or more persons likewise to join in said plan, each purchaser being given the right to secure money, credits, goods, or something of value, depending upon the number of persons joining the plan.

(4) To commit, allow, or ratify any act of "bushing" which is defined as follows: Taking from a prospective buyer of a vehicle a written order or offer to purchase, or a contract document signed by the buyer, which:

(a) Is subject to the dealer's, or his authorized representative's future acceptance, and the dealer fails or refuses within forty-eight hours, exclusive of Saturday, Sunday, or legal holiday, and prior to any further negotiations with said buyer, to deliver to the buyer either the dealer's signed acceptance or all copies of the order, offer, or contract document together with any initial payment or security made or given by the buyer, including but not limited to money, check, promissory note, vehicle keys, a trade-in, or certificate of title to a trade-in; or

(b) Permits the dealer to renegotiate a dollar amount specified as trade-in allowance on a vehicle delivered or to be delivered by the buyer as part of the purchase price, for any reason except substantial physical damage or latent mechanical defect occurring before the dealer took possession of the vehicle and which could not have been reasonably discoverable at the time of the taking of the order, offer, or contract; or

(c) Fails to comply with the obligation of any written warranty or guarantee given by the dealer requiring the furnishing of services or repairs within a reasonable time.

(5) To commit any offense relating to odometers, as such offenses are defined in RCW 46.37.540, 46.37.550, 46.37.560, and 46.37.570. A violation of this subsection is a class C felony punishable under chapter 9A.20 RCW.

(6) For any vehicle dealer or vehicle salesman to refuse to furnish, upon request of a prospective purchaser, the name and address of the previous registered owner of any used vehicle offered for sale.

(7) To commit any other offense under RCW 46.37.423, 46.37.424, or 46.37.425.

(8) To commit any offense relating to a dealer's temporary license permit, including but not limited to failure to properly complete each such permit, or the issuance of more than one such permit on any one vehicle.

(9) For a dealer, salesman, or mobile home manufacturer, having taken an instrument or cash "on deposit" from a purchaser prior to the delivery of the bargained-for vehicle, to commingle said "on deposit" funds

with assets of the dealer, salesman, or mobile home manufacturer instead of holding said "on deposit" funds as trustee in a separate trust account until the purchaser has taken delivery of the bargained-for vehicle. Failure, immediately upon receipt, to endorse "on deposit" instruments to such a trust account, or to set aside "on deposit" cash for deposit in such trust account, and failure to deposit such instruments or cash in such trust account by the close of banking hours on the day following receipt thereof, shall be evidence of intent to commit this unlawful practice: **PROVIDED, HOWEVER,** That a motor vehicle dealer may keep a separate trust account which equals his customary total customer deposits for vehicles for future delivery.

(10) For a dealer or manufacturer to fail to comply with the obligations of any written warranty or guarantee given by the dealer or manufacturer requiring the furnishing of goods and services or repairs within a reasonable period of time, or to fail to furnish to a purchaser, all parts which attach to the manufactured unit including but not limited to the undercarriage, and all items specified in the terms of a sales agreement signed by the seller and buyer.

(11) Being a manufacturer, other than a motorcycle manufacturer governed by chapter 46.94 RCW, to:

(a) Coerce or attempt to coerce any vehicle dealer to order or accept delivery of any vehicle or vehicles, parts or accessories, or any other commodities which have not been voluntarily ordered by the vehicle dealer: **PROVIDED,** That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute coercion;

(b) Cancel or fail to renew the franchise or selling agreement of any vehicle dealer doing business in this state without fairly compensating the dealer at a fair going business value for his capital investment which shall include but not be limited to tools, equipment, and parts inventory possessed by the dealer on the day he is notified of such cancellation or termination and which are still within the dealer's possession on the day the cancellation or termination is effective, if: (i) The capital investment has been entered into with reasonable and prudent business judgment for the purpose of fulfilling the franchise; and (ii) said cancellation or nonrenewal was not done in good faith. Good faith is defined as the duty of each party to any franchise to act in a fair and equitable manner towards each other, so as to guarantee one party freedom from coercion, intimidation, or threats of coercion or intimidation from the other party: **PROVIDED,** That recommendation, endorsement, exposition, persuasion, urging, or argument are not deemed to constitute a lack of good faith.

(c) Encourage, aid, abet, or teach a vehicle dealer to sell vehicles through any false, deceptive, or misleading sales or financing practices including but not limited to those practices declared unlawful in this section;

(d) Coerce or attempt to coerce a vehicle dealer to engage in any practice forbidden in this section by either threats of actual cancellation or failure to renew the dealer's franchise agreement;

(e) Refuse to deliver any vehicle publicly advertised for immediate delivery to any duly licensed vehicle dealer having a franchise or contractual agreement for the retail sale of new and unused vehicles sold or distributed by such manufacturer within sixty days after such dealer's order has been received in writing unless caused by inability to deliver because of shortage or curtailment of material, labor, transportation, or utility services, or by any labor or production difficulty, or by any cause beyond the reasonable control of the manufacturer;

(f) To provide under the terms of any warranty that a purchaser of any new or unused vehicle that has been sold, distributed for sale, or transferred into this state for resale by the vehicle manufacturer may only make any warranty claim on any item included as an integral part of the vehicle against the manufacturer of that item.

Nothing in this section may be construed to impair the obligations of a contract or to prevent a manufacturer, distributor, representative, or any other person, whether or not licensed under this chapter, from requiring performance of a written contract entered into with any licensee hereunder, nor does the requirement of such performance constitute a violation of any of the provisions of this section if any such contract or the terms thereof requiring performance, have been freely entered into and executed between the contracting parties. This paragraph and subsection (11)(b) of this section do not apply to new motor vehicle manufacturers governed by chapter 46.96 RCW.

(12) Unlawful transfer of an ownership interest in a motor vehicle as defined in section 6 of this act.

NEW SECTION. Sec. 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 16. Sections 1 through 13 of this act shall constitute a new chapter in Title 19 RCW.

Passed the Senate January 29, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 45

[House Bill No. 1055]

FIRE PROTECTION FOR STATE-OWNED BUILDINGS STUDY

AN ACT Relating to financing the provision of fire protection services for state-owned buildings and equipment; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. The office of financial management shall study the method by which the state makes payments to cities and fire protection districts for fire protection services provided to state-owned buildings and equipment, institutions of higher education, and local schools. The study shall identify and make recommendations for implementation of a method to improve the consistency of the payments. The recommended method may reflect the types and characteristics of the facilities being protected and shall eliminate payments that fall below a recommended minimum level. The study shall be submitted to the ways and means and governmental operations committees of the senate and the appropriations and state government committees of the house of representatives by December 1, 1990.

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

Passed the House February 13, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 46

[House Bill No. 1523]

CONTRACTOR ADVERTISING

AN ACT Relating to contractor advertising; and amending RCW 18.27.100.

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

Sec. 1. Section 10, chapter 77, Laws of 1963 as last amended by section 3, chapter 362, Laws of 1987 and RCW 18.27.100 are each amended to read as follows:

(1) Except as provided in RCW (~~18.27.020~~) 18.27.065 for partnerships and joint ventures, no person who has registered under one name as provided in this chapter shall engage in the business, or act in the capacity, of a contractor under any other name unless such name also is registered (~~(hereunder)~~) under this chapter.

(2) All advertising and all contracts, correspondence, cards, signs, posters, papers, and documents which show a contractor's name or address shall show the contractor's name or address as registered ((hereunder)) under this chapter. The alphabetized listing of contractors appearing in the advertising section of telephone books or other directories and all advertising((, including by airwave transmission, which)) that shows ((or announces)) the contractor's name or address shall show ((or announce)) the contractor's current registration number: PROVIDED, That signs on motor vehicles subject to RCW 46.16.010 and on-premise signs shall not constitute advertising as provided in this section. All materials used to directly solicit business from retail customers who are not businesses shall show the contractor's current registration number. Advertising by airwave transmission shall not be subject to this subsection if the person selling the advertisement obtains the contractor's current registration number from the contractor.

(3) No contractor shall advertise that he or she is bonded and insured because of the bond required to be filed and sufficiency of insurance as provided in this chapter.

(4) A contractor shall not falsify a registration number and use it in connection with any solicitation or identification as a contractor. All individual contractors and all partners, associates, agents, salesmen, solicitors, officers, and employees of contractors shall use their true names and addresses at all times while engaged in the business or capacity of a contractor or activities related thereto.

(5) Any person who is found to be in violation of this section by the director at a hearing held in accordance with the administrative procedure act, chapter ((34.04)) 34.05 RCW, shall be required to pay a penalty of not more than five thousand dollars as determined by the director. However, the penalty under this section shall not apply to a violation determined to be an inadvertent error.

Passed the House January 24, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 47

[House Bill No. 2310]

STATE FINANCING CONTRACTS

AN ACT Relating to financing contracts; and amending RCW 43.82.010, 84.36.010, and 39.94.020.

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

Sec. 1. Section 43.82.010, chapter 8, Laws of 1965 as last amended by section 20, chapter 36, Laws of 1988 and RCW 43.82.010 are each amended to read as follows:

(1) The director of the department of general administration, on behalf of the agency involved, shall purchase, lease, rent, or otherwise acquire all real estate, improved or unimproved, as may be required by elected state officials, institutions, departments, commissions, boards, and other state agencies, or federal agencies where joint state and federal activities are undertaken and may grant easements and transfer, exchange, sell, lease, or sublease all or part of any surplus real estate for those state agencies which do not otherwise have the specific authority to dispose of real estate. This section does not transfer financial liability for the acquired property to the department of general administration.

(2) Except for real estate occupied by federal agencies, the director shall determine the location, size, and design of any real estate or improvements thereon acquired or held pursuant to subsection (1) of this section.

(3) The director is authorized to purchase, lease, rent, or otherwise acquire improved or unimproved real estate as owner or lessee and to lease or sublet all or a part of such real estate to state or federal agencies. The director shall charge each using agency its proportionate rental which shall include an amount sufficient to pay all costs, including, but not limited to, those for utilities, janitorial and accounting services, and sufficient to provide for contingencies; which shall not exceed five percent of the average annual rental, to meet unforeseen expenses incident to management of the real estate.

(4) If the director determines that it is necessary or advisable to undertake any work, construction, alteration, repair, or improvement on any real estate acquired pursuant to subsections (1) or (3) of this section, the director shall cause plans and specifications thereof and an estimate of the cost of such work to be made and filed in his office and the state agency benefiting thereby is hereby authorized to pay for such work out of any available funds: PROVIDED, That the cost of executing such work shall not exceed the sum of twenty-five thousand dollars. Work, construction, alteration, repair, or improvement in excess of twenty-five thousand dollars, other than that done by the owner of the property if other than the state, shall be performed in accordance with the public works law of this state.

(5) In order to obtain maximum utilization of space, the director shall make space utilization studies, and shall establish standards for use of space by state agencies.

(6) The director may construct new buildings on, or improve existing facilities, and furnish and equip, all real estate under his management.

(7) All conveyances and contracts to purchase, lease, rent, transfer, exchange, or sell real estate and to grant and accept easements shall be approved as to form by the attorney general, signed by the director or the

director's designee, and recorded with the county auditor of the county in which the property is located.

(8) The director may delegate any or all of the functions specified in this section to any agency upon such terms and conditions as the director deems advisable.

(9) This section does not apply to the acquisition of real estate by:

(a) The state college and universities for research or experimental purposes;

(b) The state liquor control board for liquor stores and warehouses; and

(c) The department of natural resources, the department of fisheries, the department of 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. 2. Section 1, chapter 34, Laws of 1969 as amended by section 1, chapter 260, Laws of 1971 ex. sess. and RCW 84.36.010 are each amended to read as follows:

All property belonging exclusively to the United States, the state, any county or municipal corporation, and all property under a financing contract pursuant to chapter 39.94 RCW or recorded agreement granting immediate possession and use to said public bodies or under an order of immediate possession and use pursuant to RCW 8.04.090, shall be exempt from taxation. All property belonging exclusively to a foreign national government shall be exempt from taxation if such property is used exclusively as an office or residence for a consul or other official representative of such foreign national government, and if the consul or other official representative is a citizen of such foreign nation.

Sec. 3. Section 2, chapter 356, Laws of 1989 and RCW 39.94.020 are each amended to read as follows:

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

(1) "Credit enhancement" includes insurance, letters of credit, lines of credit, or other similar agreements which enhance the security for the payment of the state's obligations under financing contracts.

(2) "Financing contract" means any contract entered into by the state which provides for the use and purchase of real or personal property by the state and provides for payment by the state over a term of more than one year, and which provides that title to the subject property shall ~~(, upon exercise of an option,)~~ secure performance of the state or transfer to the state

by the end of the term, upon exercise of an option, for a nominal amount or for a price determined without reference to fair market value (~~upon the termination of the contract~~). Financing contracts shall include, but not be limited to, conditional sales contracts, financing leases, lease purchase contracts, or refinancing contracts, but shall not include operating or true leases. For purposes of this chapter, the term "financing contract" shall not include any nonrecourse financing contract or other obligation payable only from money or other property received from private sources and not payable from any public money or property. The term "financing contract" shall include a "master financing contract."

(3) "Master financing contract" means a financing contract which provides for the use and purchase of property by the state, and which may include more than one financing contract and appropriation.

(4) "State" means the state, agency, department, or instrumentality of the state, the state board for community college education, and any state institution of higher education.

(5) "State finance committee" means the state finance committee under chapter 43.33 RCW.

(6) "Trustee" means a bank or trust company, within or without the state, authorized by law to exercise trust powers.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 48

[House Bill No. 2527]

UTILITY AND TRANSPORTATION COMPANY REGULATORY FEES—DUE DATE

AN ACT Relating to regulatory fees; and amending RCW 80.24.010 and 81.24.010.

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

Sec. 1. Section 80.24.010, chapter 14, Laws of 1961 as amended by section 14, chapter 450, Laws of 1985 and RCW 80.24.010 are each amended to read as follows:

Every public service company subject to regulation by the commission shall, on or before the (~~first day of April of each year~~) date specified by the commission for filing annual reports under RCW 80.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year or portion thereof and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars: PROVIDED, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows:

Electrical, gas, water, telecommunications, and irrigation companies shall constitute class one. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

Sec. 2. Section 81.24.010, chapter 14, Laws of 1961 as last amended by section 1, chapter 48, Laws of 1977 ex. sess. and RCW 81.24.010 are each amended to read as follows:

Every company subject to regulation by the commission, except auto transportation companies, steamboat companies, wharfingers or warehousemen, motor freight carriers, and storage warehousemen shall, on or before the ((first day of April of each year)) date specified by the commission for filing annual reports under RCW 81.04.080, file with the commission a statement on oath showing its gross operating revenue from intrastate operations for the preceding calendar year, or portion thereof, and pay to the commission a fee equal to one-tenth of one percent of the first fifty thousand dollars of gross operating revenue, plus two-tenths of one percent of any gross operating revenue in excess of fifty thousand dollars, except railroad companies which shall each pay to the commission a fee equal to one and one-half percent of its intrastate gross operating revenue: PROVIDED, That the fee shall in no case be less than one dollar.

The percentage rates of gross operating revenue to be paid in any one year may be decreased by the commission for any class of companies subject to the payment of such fees, by general order entered before March 1st of such year, and for such purpose such companies shall be classified as follows: Railroad, express, sleeping car, and toll bridge companies shall constitute class two. Every other company subject to regulation by the commission, for which regulatory fees are not otherwise fixed by law shall pay fees as herein provided and shall constitute additional classes according to kinds of businesses engaged in.

Passed the House February 6, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 49

[House Bill No. 2705]

PARKS AND RECREATION COMMISSION—WINTER RECREATION—DUTIES

AN ACT Relating to winter recreation functions of the state parks and recreation commission; amending RCW 43.51.340, 43.51.290, 43.51.300, and 46.61.585; and declaring an emergency.

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

Sec. 1. Section 8, chapter 209, Laws of 1975 1st ex. sess. as last amended by section 107, chapter 175, Laws of 1989 and RCW 43.51.340 are each amended to read as follows:

(1) There is created a winter recreation advisory committee to advise the parks and recreation commission in the administration of this chapter and to assist and advise the commission in the development of winter recreation facilities and programs.

(2) The committee shall consist of:

(a) Six representatives of the nonsnowmobiling winter recreation public appointed by the commission, including a resident of each of the six geographical areas of this state where nonsnowmobiling winter recreation activity occurs, as defined by the commission.

(b) Three representatives of the snowmobiling public appointed by the commission.

(c) One representative of the department of natural resources, one representative of the department of 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 appointments to fill vacancies for the remainder of the unexpired term: PROVIDED, That the first of these members shall be appointed for terms as follows: Three members shall be appointed for one year, three members shall be appointed for two years, and three members shall be appointed for three years.

(4) Members of the committee shall be reimbursed from the winter recreational program account created by RCW 43.51.310 for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(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, ~~((+99+))~~ 2001.

Sec. 2. Section 1, chapter 209, Laws of 1975 1st ex. sess. as amended by section 1, chapter 11, Laws of 1982 and RCW 43.51.290 are each amended to read as follows:

In addition to its other powers, duties, and functions the state parks and recreation commission may:

(1) Plan, construct, and maintain suitable facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners by agreement;

(2) Provide and issue upon payment of the proper fee, with the assistance of such authorized agents as may be necessary for the convenience of the public, ~~((a permit))~~ special permits to park in designated winter recreational area parking spaces;

(3) Administer the snow removal operations for all designated winter recreational area parking spaces; and

(4) Compile, publish, and distribute maps indicating such parking spaces, adjacent trails, and areas and facilities suitable for winter recreational activities.

The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof.

Sec. 3. Section 2, chapter 209, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 47, Laws of 1986 and RCW 43.51.300 are each amended to read as follows:

The fee for the issuance of ~~((the))~~ special winter recreational area parking permits ~~((for each winter season commencing on October 1st of each year))~~ shall be determined by the commission after consultation with the winter recreation advisory committee. If the person making application therefor is also the owner of a snowmobile registered pursuant to chapter 46.10 RCW, there shall be no fee for the issuance of ~~((the))~~ an annual permit. All special winter recreational area parking permits shall commence and expire on the ~~((last day of September following the issuance of such permit))~~ dates established by the commission.

Sec. 4. Section 5, chapter 209, Laws of 1975 1st ex. sess. and RCW 46.61.585 are each amended to read as follows:

Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic control device, no person shall park a vehicle in an area designated by an official

sign that it is a winter recreational parking area unless such vehicle displays, in accordance with regulations adopted by the parks and recreation commission, a special winter recreational area parking permit or permits.

NEW SECTION. Sec. 5. Section 3 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 February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 50

[Senate Bill No. 6535]

PRIVATE ACTIVITY BOND ALLOCATION CEILINGS

AN ACT Relating to private activity bond allocation ceilings; and amending RCW 39.86.120.

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

Sec. 1. Section 3, chapter 297, Laws of 1987 and RCW 39.86.120 are each amended to read as follows:

(1) Except as provided in subsections (2) and (4) of this section, the initial allocation of the state ceiling shall be for each year as follows:

BOND USE CATEGORY	1987	1988	1989 <u>AND</u> <u>THEREAFTER</u> <u>(If the small</u> <u>issue category</u> <u>is permitted</u> <u>under federal</u>	1990 <u>AND</u> <u>THEREAFTER</u> <u>(If the small</u> <u>issue category</u> <u>is not permitted</u> <u>under federal</u>
			<u>law)</u>	<u>law)</u>
Housing	5%	25%	25%	35%
Student Loans	10%	15%	15%	15%
Exempt Facility	40%	20%	20%	35%
Public Utility	10%	10%	10%	10%
Small Issue	30%	25%	25%	0%
Remainder and redevelopment	5%	5%	5%	5%

(2) Initial allocations may be modified by the agency only to reflect an issuer's carryforward amount. Any reduction of the initial allocation shall be added to the remainder and be available for allocation or reallocation.

(3) The remainder shall be allocated by the agency among one or more issuers from any bond use category with regard to the criteria specified in RCW 39.86.130.

(4) Should any bond use category no longer be subject to the state ceiling due to federal or state provisions of law, the agency shall divide the amount of that initial allocation among the remaining categories as necessary or appropriate with regard to the criteria specified in RCW 39.86.130.

(5)(a) Prior to September 1 of each calendar year, any available portion of an initial allocation may be allocated or reallocated only to an issuer within the same bond use category, except that the remainder category, or portions thereof, may be allocated at any time to any bond use category.

(b) Beginning September 1 of each calendar year, the agency may allocate or reallocate any available portion of the state ceiling to any bond use category with regard to the criteria specified in RCW 39.86.130.

Passed the Senate February 9, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 51

[House Bill No. 2901]

LIFE AND DISABILITY INSURANCE GUARANTY ASSOCIATION

AN ACT Relating to life and disability insurance; amending RCW 48.32A.010, 48.32A.020, 48.32A.030, 48.32A.060, 48.32A.080, and 48.32A.090; and declaring an emergency.

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

Sec. 1. Section 1, chapter 259, Laws of 1971 ex. sess. and RCW 48.32A.010 are each amended to read as follows:

The purpose of this chapter is the creation of funds arising from assessments upon all insurers authorized to transact life or disability insurance business in the state of Washington, to be used to assure to the extent prescribed herein the performance of the insurance contractual obligations of insurers becoming insolvent to residents of this state (~~and, in the case of domestic insurers, to residents of other jurisdictions as well~~), and to promote thereby the stability of domestic insurers. In the judgment of the legislature, the foregoing purpose not being capable of accomplishment by a corporation created under general laws, the creation of the nonprofit association hereinafter in this chapter described is deemed essential for the protection of the general welfare.

Sec. 2. Section 2, chapter 259, Laws of 1971 ex. sess. and RCW 48.32A.020 are each amended to read as follows:

This chapter shall apply as follows to life insurance policies, disability insurance policies, and annuity contracts of liquidating insurers, other than

separate account variable policies and contracts authorized by chapter 48.18A RCW:

(1) ~~((To all such policies and contracts of a domestic insurer, without regard to the place of residence or domicile of the policy or contract owner, insured, annuitant, beneficiary, or payee:~~

~~(2)))~~ To all such policies and contracts of a domestic, foreign, or alien insurer authorized to transact such insurance or annuity business in this state at the time such policies or contracts were issued or at the time of entry of the order of liquidation of the insolvent insurer, and of which the policy or contract owner, insured, annuitant, beneficiary, or payee is a resident of and domiciled within this state. ~~((With respect to group policies or group contracts of such foreign or alien insurers;))~~ This chapter shall apply only as to the insurance or annuities thereunder of individuals who are residents of and domiciled within this state. The place of residence or domicile shall be determined as of the date of entry of the order of liquidation against the insurer.

~~((3)))~~ (2) To policies and contracts only of insolvent insurers with respect to which an order of liquidation is entered after May 21, 1971.

~~((4)))~~ (3) The obligations of the association created under this chapter shall apply only as to contractual obligations of the insurer under insurance policies and annuity contracts, and shall be no greater than such obligations of the insolvent insurer at the time of entry of the order of liquidation ~~((except, that the association shall have no liability with respect to any portions of such policies or contracts to the extent that the death benefit coverage on any one life exceeds an aggregate of three hundred thousand dollars:~~

~~(5) This chapter shall not apply to fraternal benefit societies, health care service contractors, or to insurance or liability assumed by the liquidating insurer under a contract of reinsurance other than of bulk reinsurance)).~~ However, the liability of the association shall in no event exceed:

(a) With respect to any one life, regardless of the number of policies or contracts:

(i) Five hundred thousand dollars in life insurance death benefits, including any net cash surrender and net cash withdrawal values for life insurance;

(ii) Five hundred thousand dollars in disability insurance benefits, including any net cash surrender and net cash withdrawal values; or

(iii) Five hundred thousand dollars in the present value of allocated annuity benefits and annuities established under section 403(b) of the United States internal revenue code.

The association shall not be liable to expend more than five hundred thousand dollars in the aggregate with respect to any one individual under this subsection; or

(b) With respect to any one contract owner covered by any unallocated annuity contract, including governmental retirement plans established under section 401 or 457 of the United States internal revenue code, five million dollars in benefits, irrespective of the number of such contracts held by that contract owner.

(4) This chapter shall not apply to:

(a) Fraternal benefit societies;

(b) Health care service contractors;

(c) Insurance or liability assumed by the liquidating insurer under a contract of reinsurance other than bulk reinsurance;

(d) Any unallocated annuity contract issued to an employee benefit plan protected under the federal pension benefit guaranty corporation; or

(e) Any portion of any unallocated annuity contract which is not issued to or in connection with a specific employee, union, association of natural persons benefit plan, or a government lottery.

Sec. 3. Section 3, chapter 259, Laws of 1971 ex. sess. and RCW 48-32A.030 are each amended to read as follows:

Within the meaning of this chapter:

(1) "Association" means "the Washington life and disability insurance guaranty association".

(2) "Board" means the board of directors of the Washington life and disability insurance guaranty association.

(3) "Commissioner" means the insurance commissioner of this state.

(4) "Policies" means life or disability insurance policies; "contracts" means annuity contracts and contracts supplemental to such insurance policies and annuity contracts.

(5) "Liquidating insurer" means an insurer with respect to which an order of liquidation has been entered by a court of competent jurisdiction.

(6) "Fund" means a guaranty fund provided for in RCW 48.32A.080.

(7) "Account" means any one of the three guaranty fund accounts created under RCW 48.32A.080(1).

(8) "Assessment" means a charge made upon an insurer by the board under this chapter for payment into a guaranty fund. The charge shall constitute a legal liability of the insurer so assessed.

(9) "Contributor" means an insurer which has paid an assessment.

(10) "Certificate" means a certificate of contribution provided for in RCW 48.32A.090.

(11) "Unallocated annuity contract" means any annuity contract or group annuity certificate which is not issued to and owned by an individual, except to the extent of any annuity benefits guaranteed to an individual by an insurer under such contract or certificate.

Sec. 4. Section 6, chapter 259, Laws of 1971 ex. sess. as amended by section 2, chapter 133, Laws of 1975 1st ex. sess. and RCW 48.32A.060 are each amended to read as follows:

(1) The association shall, subject to such terms and conditions as it may impose with the approval of the commissioner, assume, reinsure, or guarantee the performance of the policies and contracts, for a resident of the state, of any domestic life or disability insurer with respect to which an order of liquidation has been entered by any court of general jurisdiction in the state of Washington, and shall have power to receive, own, and administer any assets acquired in connection with such assumption, reinsurance, or guaranty. The association, as to any such policy or contract under which there is no default in payment of premiums subsequent to such assumption, reinsurance, or guaranty, shall make or cause to be made prompt payment of the benefits due under the terms of the policy or contract.

(2) The association shall make or cause to be made payment of the death, endowment, or disability insurance or annuity benefits due under the terms of each policy or contract insuring the life or health of, or providing annuity or other benefits for, a resident of this state which was issued or assumed by a foreign or alien insurer with respect to which an order of liquidation has been entered by a court of competent jurisdiction in the state or country of its domicile.

(3) In determining benefits to be paid with respect to the policies and contracts of a particular liquidating insurer the board may give due consideration to amounts reasonably recoverable or deductible because of the contingent liability, if any, of policyholders of the insurer (if a mutual insurer) or recoverable because of the assessment liability, if any, of the insurer's stockholders (if a stock insurer).

(4) With respect to an insolvent domestic insurer, the board shall have power to petition the court in which the delinquency proceedings are pending for, and the court shall have authority to order and effectuate, such modifications in the terms, benefits, values, and premiums thereafter to be in effect of policies and contracts of the insurer as may reasonably be necessary to effect a bulk reinsurance of such policies and contract in a solvent insurer.

In the event, after the entry of an order of liquidation, an assessment on the members is necessary to increase the assets of the insolvent company to an extent that a bulk reinsurance of such policies may be effected, the court shall have authority to order such assessment.

(5) In addition to any other rights of the association acquired by assignment or otherwise, the association shall be subrogated to the rights of any person entitled to receive benefits under this chapter against the liquidating insurer, or the receiver, rehabilitator, liquidator, or conservator, as the case may be, under the policy or contract with respect to which a payment is made or guaranteed, or obligation assumed by the association pursuant to this section, and the association may require an assignment to it of such rights by any such persons as a condition precedent to the receipt by such person of payment of any benefits under this chapter.

(6) For the purpose of carrying out its obligations under this chapter, the association shall be deemed to be a creditor of the liquidating insurer to the extent of assets attributable to covered policies and contracts reduced by any amounts to which the association is entitled as a subrogee. All assets of the liquidating insurer attributable to covered policies and contracts shall be used to continue all covered policies and contracts and pay all contractual obligations of the liquidating insurer as required by this chapter. Assets attributable to covered policies and contracts, as used in this subsection, are those in that proportion of the assets which the reserves that should have been established for such policies and contracts bear to the reserves that should have been established for all insurances written by the liquidating insurer.

(7) The association shall have the power to petition the superior court for an order appointing the commissioner as receiver of a domestic insurer upon any of the grounds set forth in RCW 48.31.030.

Sec. 5. Section 8, chapter 259, Laws of 1971 ex. sess. as amended by section 5, chapter 119, Laws of 1975-'76 2nd ex. sess. and RCW 48.32A-.080 are each amended to read as follows:

(1) For purposes of administration and assessment, the association shall establish and maintain (~~four~~) three guaranty fund accounts:

(a) The life insurance and annuity account (~~(; (b) the disability insurance account, (c) the annuity account, and (d) the general account)~~), which shall be divided into three subaccounts:

(i) The life insurance subaccount;

(ii) The allocated annuity subaccount; and

(iii) The unallocated annuity subaccount which shall include contracts qualified under section 403(b) of the United States internal revenue code;

(b) The disability insurance account; and

(c) The general account.

(2) For the purpose of providing the funds necessary to carry out the powers and duties of the association, the board shall assess the member insurers, separately for each account, at such times and for such amounts as the board finds necessary. The board shall collect the assessment after thirty days written notice to the member insurers before payment is due. The board may charge reasonable interest for delinquent payment of the assessment.

(3) (a) The amount of any assessment for each account and subaccount shall be determined by the board, and shall be divided among the accounts and subaccounts in the proportion that the premiums received by the liquidating insurer on the policies or contracts covered by each account and subaccount bears to the premiums received by such insurer on all covered policies and contracts.

(b) Assessments against member insurers for each account and subaccount shall be in the proportion that the premiums received on business in this state by each assessed member insurer on policies or contracts covered by each account or subaccount bears to such premiums received on business in this state by all assessed member insurers.

(c) Assessments for funds to meet the requirements of the association with respect to a particular liquidating insurer shall not be made until necessary, in the board's opinion, to implement the purposes of this chapter; and in no event shall such an assessment be made with respect to such insurer until an order of liquidation has been entered against the insurer by a court of competent jurisdiction of the insurer's state or country of domicile. Computation of assessments under this subsection shall be made with a reasonable degree of accuracy, recognizing that exact determination may not always be possible.

(d) The board may make an assessment of up to one hundred fifty dollars for each member insurer to be deposited in the general account and used for administrative and general expenses in carrying out the provisions of this chapter.

~~(4) (The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. The total of all assessments upon a member insurer for each account shall not in any one calendar year exceed two percent of such insurer's premiums in this state on the policies or contracts covered by the account))~~ (a) The total of all assessments upon a member insurer for the life and annuity account and for each subaccount shall not in any one calendar year exceed two percent and for the disability account shall not in any one calendar year exceed two percent of such insurer's average premiums received in this state on the policies and contracts covered by the account during the three calendar years preceding the entry of the order of liquidation against the liquidating insurer.

(b) The board may provide a method of allocating funds among claims, whether relating to one or more impaired or insolvent insurers, when the maximum assessment will be insufficient to cover anticipated claims.

(c) If a one percent assessment for any subaccount of the life and annuity account in any one year does not provide an amount sufficient to carry out the responsibilities of the association, then pursuant to subsection (3) of this section, the board shall access all subaccounts of the life and annuity account for the necessary additional amount, subject to the maximum stated in (a) of this subsection.

(5) The association may abate or defer, in whole or in part, the assessment of a member insurer if, in the opinion of the board, payment of the assessment would endanger the ability of the insurer to fulfill its contractual obligations. In the event an assessment against a member insurer is abated

or deferred, in whole or in part, (~~because of the limitations set forth in subsection (4) of this section;~~) the amount by which such assessment is abated or deferred may be assessed against the other member insurers in a manner consistent with the basis for assessments set forth in this section. If the maximum assessment, together with the other assets of the association in an account, does not provide in any one year an amount sufficient to carry out the responsibilities of the association with respect to such account, the necessary additional funds shall be assessed as soon thereafter as permitted by this chapter.

(6) The amount in a fund shall be kept at such a sum as in the opinion of the board will enable the association to meet the immediate obligations and liabilities of such fund. Whenever in the opinion of the board the amount in a fund is in excess of such immediate obligations and liabilities, with the approval of the commissioner the association may distribute such excess by retirement of certificates previously issued against the fund. Such distribution shall be made pro rata upon the basis of outstanding certificates, except that by unanimous consent of all directors and with the approval of the commissioner any other reasonable method of retirement of such certificates may be adopted.

(7) As used in this section, "premiums" are those for the calendar year preceding the entry of the order of liquidation as to a particular liquidating insurer, and shall be direct gross insurance premiums and annuity considerations received on policies and contracts to which this chapter applies, less return premiums and considerations and less dividends paid or credited to policyholders.

(8) Upon dissolution of a fund by the repeal of this chapter or otherwise, the fund shall be distributed in the same manner as is provided for the repayment or retirement of certificates. If the amount in the fund at the time of dissolution is in excess of outstanding certificates issued against the fund, such excess shall be distributed among contributing member insurers in such equitable manner as is approved by the commissioner.

Sec. 6. Section 9, chapter 259, Laws of 1971 ex. sess. as last amended by section 2, chapter 183, Laws of 1977 ex. sess. and RCW 48.32A.090 are each amended to read as follows:

(1) The association shall issue to each insurer paying an assessment under this chapter certificates of contribution, in appropriate form and terms as prescribed or approved by the commissioner, for the amounts so paid into the respective funds. All outstanding certificates against a particular fund shall be of equal dignity and priority without reference to amounts or dates of issue.

(2) An outstanding certificate of contribution shall be shown by the insurer in its financial statements as an admitted asset for such amount and period of time as the commissioner may approve: PROVIDED, That unless a longer period has been allowed by the commissioner the insurer shall in

any event at its option have the right to so show a certificate of contribution as an admitted asset at percentages of original face amount for calendar years as follows:

100% for the calendar year of issuance;
~~((90%))~~ 80% for the first calendar year after the year of issuance;
~~((80%))~~ 60% for the second calendar year after the year of issuance;
~~((70%))~~ 40% for the third calendar year after the year of issuance;
~~((60%))~~ 20% for the fourth calendar year after the year of issuance;
~~((50% for the fifth calendar year after the year of issuance;~~
~~40% for the sixth calendar year after the year of issuance;~~
~~30% for the seventh calendar year after the year of issuance;~~
~~20% for the eighth calendar year after the year of issuance;~~
~~10% for the ninth calendar year after the year of issuance;))~~ and
 0% for the ~~((tenth))~~ fifth and subsequent calendar years after the year of issuance.

Notwithstanding the foregoing, if the value of a certificate of contribution is or becomes less than one thousand dollars, the entire amount may be written off by the insurer in that year.

(3) The insurer shall offset the amount written off by it in a calendar year under subsection (2) of this section against its premium tax liability to this state accrued with respect to business transacted in such year.

(4) Any sums recovered by the association representing sums which have theretofore been written off by contributing insurers and offset against premium taxes as provided in subsection (3) of this section, shall be paid by the association to the commissioner and by him deposited with the state treasurer for credit to the general fund of the state of Washington.

(5) No distribution to stockholders, if any, of a liquidating insurer shall be made unless and until the total amount of assessments levied by the association with respect to such insurer have been fully recovered by the association.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, and safety, the support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House March 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 52

[House Bill No. 2562]

HOSPITAL COMMISSION STATUTES—REPEAL

AN ACT Relating to the repeal of hospital commission statutes; and amending RCW 43.131.254.

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

Sec. 1. Section 10, chapter 223, Laws of 1982 as amended by section 26, chapter 288, Laws of 1984 and RCW 43.131.254 are each amended to read as follows:

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

(1) Section 2, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 288, Laws of 1984 and RCW 70.39.010;

(2) Section 3, chapter 5, Laws of 1973 1st ex. sess., section 2, chapter 288, Laws of 1984 and RCW 70.39.020;

(3) Section 4, chapter 5, Laws of 1973 1st ex. sess., section 3, chapter 288, Laws of 1984 and RCW 70.39.030;

(4) Section 5, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 36, Laws of 1977, section 4, chapter 288, Laws of 1984 and RCW 70.39.040;

(5) Section 6, chapter 5, Laws of 1973 1st ex. sess., section 104, chapter 287, Laws of 1984, section 5, chapter 288, Laws of 1984 and RCW 70.39.050;

(6) Section 7, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 35, Laws of 1977, section 6, chapter 288, Laws of 1984 and RCW 70.39.060;

(7) Section 8, chapter 5, Laws of 1973 1st ex. sess., section 17, chapter 125, Laws of 1984, section 7, chapter 288, Laws of 1984 and RCW 70.39.070;

(8) Section 9, chapter 5, Laws of 1973 1st ex. sess., section 8, chapter 288, Laws of 1984 and RCW 70.39.080;

(9) Section 10, chapter 5, Laws of 1973 1st ex. sess., section 9, chapter 288, Laws of 1984 and RCW 70.39.090;

(10) Section 11, chapter 5, Laws of 1973 1st ex. sess., section 10, chapter 288, Laws of 1984 and RCW 70.39.100;

(11) Section 12, chapter 5, Laws of 1973 1st ex. sess., section 11, chapter 288, Laws of 1984 and RCW 70.39.110;

(12) Section 13, chapter 5, Laws of 1973 1st ex. sess., section 12, chapter 288, Laws of 1984 and RCW 70.39.120;

(13) Section 14, chapter 5, Laws of 1973 1st ex. sess., section 82, chapter 75, Laws of 1977, section 13, chapter 288, Laws of 1984, section 58, chapter 505, Laws of 1987 and RCW 70.39.130;

(14) Section 15, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 163, Laws of 1974 ex. sess., section 14, chapter 288, Laws of 1984, section 1, chapter 118, Laws of 1988 and RCW 70.39.140;

(15) Section 16, chapter 5, Laws of 1973 1st ex. sess., section 1, chapter 154, Laws of 1977 ex. sess., section 18, chapter 288, Laws of 1984 and RCW 70.39.150;

(16) Section 17, chapter 5, Laws of 1973 1st ex. sess., section 19, chapter 288, Laws of 1984 and RCW 70.39.160;

(17) Section 18, chapter 5, Laws of 1973 1st ex. sess., section 67, chapter 57, Laws of 1985 and RCW 70.39.170;

(18) Section 19, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.180;

(19) Section 20, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.190;

(20) Section 21, chapter 5, Laws of 1973 1st ex. sess., section 20, chapter 288, Laws of 1984 and RCW 70.39.200;

(21) Section 22, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.900;

(22) Section 23, chapter 5, Laws of 1973 1st ex. sess. and RCW 70.39.910;

(23) Section 15, chapter 288, Laws of 1984 and RCW 70.39.165;

(24) Section 23, chapter 288, Laws of 1984 and RCW 70.39.195;

((and))

(25) Section 24, chapter 288, Laws of 1984 and RCW 70.39.125; and

(26) Section 1, chapter 262, Laws of 1988 and RCW 70.39.144.

Passed the House February 6, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 53

[House Bill No. 2850]

ECONOMIC DEVELOPMENT FINANCE AUTHORITY

AN ACT Relating to the Washington economic development finance authority; and amending RCW 43.163.005, 43.163.020, 43.163.050, 43.163.070, 43.163.080, and 43.163.100.

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

Sec. 1. Section 1, chapter 279, Laws of 1989 and RCW 43.163.005 are each amended to read as follows:

Economic development is essential to the health, safety, and welfare of all Washington citizens by broadening and strengthening state and local tax bases, providing meaningful employment opportunities and thereby enhancing the quality of life. Economic development increasingly is dependent

upon the ability of small-sized and medium-sized businesses and farms to finance growth and trade activities. Many of these businesses face an unmet need for capital that limits their growth. These unmet capital needs are a problem in both urban and rural areas which cannot be solved by the private sector alone. There presently exist some federal programs, private credit enhancements and other financial tools to complement the private banking industry in providing this needed capital. More research is needed to develop effective strategies to enhance access to capital and thereby stimulate economic development.

It is the purpose of this chapter to establish a state economic development finance authority to act as a financial conduit that, without using ((public)) state funds or lending the credit of the state or local governments, can issue nonrecourse revenue bonds, and participate in federal, state, and local economic development programs to help facilitate access to needed capital by Washington businesses that cannot otherwise readily obtain needed capital on terms and rates comparable to large corporations, and can help local governments obtain capital more efficiently. It is also a primary purpose of this chapter to encourage the employment and retention of Washington workers at meaningful wages and to develop innovative approaches to the problem of unmet capital needs. This chapter is enacted to accomplish these and related purposes and shall be construed liberally to carry out its purposes and objectives.

Sec. 2. Section 3, chapter 279, Laws of 1989 and RCW 43.163.020 are each amended to read as follows:

The Washington economic development finance authority is established as a public body corporate and politic, with perpetual corporate succession, constituting an instrumentality of the state of Washington exercising essential governmental functions. The authority is a public body within the meaning of RCW 39.53.010.

The authority shall consist of ((ffteen)) eighteen members as follows: The director of the department of trade and economic development, the director of the department of community development, the director of the department of agriculture, the state treasurer, one member from each caucus in the house of representatives appointed by the speaker of the house, one member from each caucus in the senate appointed by the president of the senate, and ((eight)) ten public members with one representative of women-owned businesses and one representative of minority-owned businesses and with at least three of the members residing east of the Cascades. The public members shall be residents of the state appointed by the governor on the basis of their interest or expertise in trade, agriculture or business finance or jobs creation and development. One of the public members shall be appointed by the governor as chair of the authority and shall serve as chair of the authority at the pleasure of the governor. The authority may select from its membership such other officers as it deems appropriate.

The term of the persons appointed by the governor as public members of the authority, including the public member appointed as chair, shall be four years from the date of appointment, except that the term of three of the initial appointees shall be for two years from the date of appointment and the term of ~~((two))~~ four of the initial appointees shall be for three years from the date of appointment. The governor shall designate the appointees who will serve the two-year and three-year terms.

In the event of a vacancy on the authority due to death, resignation or removal of one of the public members, or upon the expiration of the term of one of the public members, the governor shall appoint a successor for the remainder of the unexpired term. If either of the state offices is abolished, the resulting vacancy on the authority shall be filled by the state officer who shall succeed substantially to the power and duties of the abolished office.

Any public member of the authority may be removed by the governor for misfeasance, malfeasance or willful neglect of duty after notice and a public hearing, unless such notice and hearing shall be expressly waived in writing by the affected public member.

The state officials serving in ex officio capacity may each designate an employee of their respective departments to act on their behalf in all respects with regard to any matter to come before the authority. Such designations shall be made in writing in such manner as is specified by the rules of the authority.

The members of the authority shall serve without compensation but shall be entitled to reimbursement, solely from the funds of the authority, for expenses incurred in the discharge of their duties under this chapter. The authority may borrow funds from the department ~~((for the first year of the authority's operations))~~ for the purpose of reimbursing members for expenses; however, the authority shall repay the department as soon as practicable.

A majority of the authority shall constitute a quorum.

Sec. 3. Section 6, chapter 279, Laws of 1989 and RCW 43.163.050 are each amended to read as follows:

The authority is authorized to develop and conduct a program or programs to promote small business and agricultural financing in the state through the pooling of loans or portions of loans made or guaranteed through programs administered by ~~((the))~~ federal agencies including the small business or farmers home administrations. For such purpose, the authority may acquire from eligible banking organizations and other financial intermediaries who make or hold loans made or guaranteed through programs administered by the federal small business or farmers home administrations all or portions of such loans, and the authority may contract or coordinate with parties authorized to acquire or pool loans made or guaranteed by a federal agency or with parties authorized to administer such loan or guarantee programs.

Sec. 4. Section 8, chapter 279, Laws of 1989 and RCW 43.163.070 are each amended to read as follows:

The authority may use any funds legally available to it for any purpose specifically authorized by this chapter, or for otherwise improving economic development in this state by assisting businesses and farm enterprises that do not have access to capital at terms and rates comparable to large corporations due to the location of the business, the size of the business, the lack of financial expertise, or other appropriate reasons: PROVIDED, That no funds of the state shall be used for such purposes.

Sec. 5. Section 9, chapter 279, Laws of 1989 and RCW 43.163.080 are each amended to read as follows:

~~(1) ((The authority is authorized to provide assistance and advice to persons forming corporations under chapter 31.24 RCW:~~

~~(2) The authority may contract with corporations organized under this chapter. Each contract shall specify that the money received under the contract shall be used to provide management assistance, which may include management and technical advice and services and other technical support, to businesses receiving financing from the contracting corporation. No more than five corporations may contract with the authority under this section at any time. No corporation may receive more than a total of two hundred fifty thousand dollars under this section:~~

~~(3) To qualify for a contract under this section, a corporation shall agree that at least one-half of the corporation's loans and investments will be to businesses operating in distressed areas as defined in RCW 43.165.010(3)(a) and that the corporation's loans and investments will be to businesses that have agreed to enter first-source hiring agreements with the employment security department, local private industry councils, local labor unions, or other employment or placement agencies. These agreements shall require the businesses to interview prospective employees from a list of the unemployed supplied by the employment or placement agencies and hire any qualified candidates on the list before hiring any candidates not on the list. The first-source hiring agreements shall require the business to:~~

~~(a) Provide a job description for each position;~~

~~(b) Provide a description of the skills each position requires; and~~

~~(c) Provide a salary range for each position:~~

~~The first-source hiring agreements shall require the employment or placement agency to provide a list of candidates who have expressed interest in each available position and who meet the skill requirements of each position. No fees may be charged of the unemployed candidates on the list supplied by the employment or placement agency:~~

~~(4) The authority shall adopt rules to carry out this section:~~

~~(5)) The authority shall adopt general operating procedures for the authority. The authority shall also adopt operating procedures for individual programs as they are developed for obtaining funds and for providing funds~~

to borrowers. These operating procedures shall be adopted by resolution prior to the authority operating the applicable programs.

~~((6))~~ (2) The operating procedures shall include, but are not limited to: (a) Appropriate minimum reserve requirements to secure the authority's bonds and other obligations; (b) appropriate standards for securing loans and other financing the authority provides to borrowers, such as guarantees or collateral; and (c) appropriate standards for providing financing to borrowers, such as (i) the borrower is a responsible party with a high probability of being able to repay the financing provided by the authority, (ii) the financing is reasonably expected to provide economic growth or stability in the state by enabling a borrower to increase or maintain jobs or capital in the state, (iii) the borrowers with the greatest needs or that provide the most public benefit are given higher priority by the authority, and (iv) the financing is consistent with any plan adopted by the authority under RCW 43.163.090.

Sec. 6. Section 11, chapter 279, Laws of 1989 and RCW 43.163.100 are each amended to read as follows:

In addition to accomplishing the economic development finance programs specifically authorized in this chapter, the authority may:

- (1) Maintain an office or offices;
- (2) Sue and be sued in its own name, and plead and be impleaded;
- (3) Engage consultants, agents, attorneys, and advisers, contract with federal, state, and local governmental entities for services, and hire such employees, agents and other personnel as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (4) Make and execute all manner of contracts, agreements and instruments and financing documents with public and private parties as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (5) Acquire and hold real or personal property, or any interest therein, in the name of the authority, and to sell, assign, lease, encumber, mortgage, or otherwise dispose of the same in such manner as the authority deems necessary, useful, or convenient to accomplish its purposes;
- (6) Open and maintain accounts in qualified public depositories and otherwise provide for the investment of any funds not required for immediate disbursement, and provide for the selection of investments;
- (7) Appear in its own behalf before boards, commissions, departments, or agencies of federal, state, or local government;
- (8) Procure such insurance in such amounts and from such insurers as the authority deems desirable, including, but not limited to, insurance against any loss or damage to its property or other assets, public liability insurance for injuries to persons or property, and directors and officers liability insurance;
- (9) Apply for and accept subventions, grants, loans, advances, and contributions from any source of money, property, labor, or other things of

value, to be held, used and applied as the authority deems necessary, useful, or convenient to accomplish its purposes;

(10) Establish guidelines for the participation by eligible banking organizations in programs conducted by the authority under this chapter;

(11) Act as an agent, by agreement, for federal, state, or local governmental entities to carry out the programs authorized in this chapter;

(12) Establish, revise, and collect such fees and charges as the authority deems necessary, useful, or convenient to accomplish its purposes;

(13) Make such expenditures as are appropriate for paying the administrative costs and expenses of the authority in carrying out the provisions of this chapter: PROVIDED, That expenditures with respect to the economic development financing programs of the authority shall not be made from funds of the state(~~(- PROVIDED FURTHER, That after the first year of operation, administrative expenses shall not exceed five percent of total funds received by the authority in a fiscal year))~~);

(14) Establish such reserves and special funds, and controls on deposits to and disbursements from them, as the authority deems necessary, useful, or convenient to accomplish its purposes;

(15) Give assistance to public bodies by providing information, guidelines, forms, and procedures for implementing their financing programs;

(16) Prepare, publish and distribute, with or without charge, such studies, reports, bulletins, and other material as the authority deems necessary, useful, or convenient to accomplish its purposes;

(17) Delegate any of its powers and duties if consistent with the purposes of this chapter;

(18) Adopt rules concerning its exercise of the powers authorized by this chapter; and

(19) Exercise any other power the authority deems necessary, useful, or convenient to accomplish its purposes and exercise the powers expressly granted in this chapter.

Passed the House February 12, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 54

[Senate Bill No. 6180]

BASIC HEALTH PLAN RECORDS—CONFIDENTIALITY

AN ACT Relating to confidentiality of basic health plan records; and adding a new section to chapter 70.47 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 70.47 RCW to read as follows:

Notwithstanding the provisions of chapter 42.17 RCW, (1) records obtained, reviewed by, or on file with the plan containing information concerning medical treatment of individuals shall be exempt from public inspection and copying; and (2) actuarial formulas, statistics, and assumptions submitted in support of a rate filing by a managed health care system or submitted to the administrator upon his or her request shall be exempt from public inspection and copying in order to preserve trade secrets or prevent unfair competition.

Passed the Senate February 6, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 55

[Senate Bill No. 6201]

HEALTH STUDIOS REGULATION

AN ACT Relating to health studios; and amending RCW 19.142.010, 19.142.040, and 19.142.050.

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

Sec. 1. Section 2, chapter 317, Laws of 1987 and RCW 19.142.010 are each amended to read as follows:

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

(1) "Business day" means any day except a Sunday or a legal holiday.

(2) "Buyer" or "member" means a person who purchases health studio services.

(3) "Health studio" includes any person or entity engaged in the sale of instruction, training, assistance or use of facilities which purport to assist patrons to improve their physical condition or appearance through physical exercise, body building, weight loss, figure development, the martial arts, or any other similar activity. For the purposes of this chapter, "health studio" does not include: (a) Public common schools, private schools approved under RCW 28A.02.201, and public or private institutions of higher education; (b) persons providing professional services within the scope of a person's license under Title 18 RCW; (c) bona fide nonprofit organizations which have been granted tax-exempt status by the Internal Revenue Service, the functions of which as health studios are only incidental to their overall functions and purposes; (d) a person or entity which offers physical exercise, body building, figure development or similar activities as incidental features of a plan of instruction or assistance relating to diet or control of

eating habits; (e) bona fide nonprofit corporations organized under chapter 24.03 RCW which have members and whose members have meaningful voting rights to elect and remove a board of directors which is responsible for the operation of the health club and corporation; and (f) a preexisting facility primarily offering aerobic classes, where the initiation fee is less than fifty dollars and no memberships are sold which exceed one year in duration. For purposes of this subsection, "preexisting facility" means an existing building used for health studio services covered by the fees collected.

(4) "Health studio services" means instruction, services, privileges, or rights offered for sale by a health studio. "Health studio services" do not include: (a) Instruction or assistance relating to diet or control of eating habits not involving substantial on-site physical exercise, body building, figure development, or any other similar activity; or (b) recreational or social programs which either involve no physical exercise or exercise only incidental to the program.

(5) "Initiation or membership fee" means a fee paid either in a lump sum or in installments within twelve months of execution of the health studio services contract on a one-time basis when a person first joins a health studio for the privilege of belonging to the health studio.

(6) "Special offer or discount" means any offer of health studio services at a reduced price or without charge to a prospective member.

(7) "Use fees or dues" means fees paid on a regular periodic basis for use of a health studio. This does not preclude prepayment of use fees at the buyer's option.

Sec. 2. Section 5, chapter 317, Laws of 1987 and RCW 19.142.040 are each amended to read as follows:

A contract for health studio services shall include all of the following:

- (1) The name and address of the health studio facilities operator;
- (2) The date the buyer signed the contract;
- (3) A description of the health studio services and general equipment to be provided, or acknowledgement in a conspicuous form that the buyer has received a written description of the health studio services and equipment to be provided. If any of the health studio services or equipment are to be delivered at a planned facility, at a facility under construction, or through substantial improvements to an existing facility, the description shall include a date for completion of the facility, construction, or improvement. Health studio services must begin within twelve months from the date the contract is signed unless the completion of the facility, construction, or improvement is delayed due to war, or fire, flood, or other natural disaster;
- (4) A statement of the duration of the contract. No contract for health studio services may require payments or financing by the buyer over a period in excess of thirty-six months from the date of the contract, nor may any contract term be measured by or be for the life of the buyer;

(5) The use fees or dues to be paid by the buyer and if such fees are subject to periodic adjustment. Use fees or dues may not be raised more than once in any calendar year;

(6) A complete statement of the rules of the health studio or an acknowledgement in a conspicuous form that the buyer has received a copy of the rules;

(7) Clauses which notify the buyer of the right to cancel:

(a) If the buyer dies or becomes totally disabled. The contract may require that the disability be confirmed by an examination of a physician agreeable to the buyer and the health studio;

(b) (i) Subject to (b)(ii) of this subsection, if the buyer moves his or her permanent residence to a location more than twenty-five miles from the health studio or an affiliated health studio offering the same or similar services and facilities at no additional expense to the buyer and the buyer cancels after one year from signing the contract if the contract extends for more than one year. The health studio may require reasonable evidence of relocation;

(ii) If at the time of signing the contract requiring payment of an initiation or membership fee the buyer lived more than twenty-five miles from the health studio, the buyer may cancel under (7)(b)(i) of this section only if the buyer moves an additional five miles or more from the health studio.

(c) If a contract extends for more than one year (~~or requires payment of an initiation or membership fee, in which case~~), the buyer may cancel the contract for any reason upon thirty days' written notice to the health studio;

(d) If the health studio facilities are permanently closed and comparable facilities owned and operated by the seller are not made available within a ten-mile radius of the closed facility;

(e) If a facility, construction, or improvement is not completed by the date represented by the contract;

(f) If the contract for health studio services was sold prior to the opening of the facility, the buyer may cancel within the first five business days the facility opens for use of the buyer and the health studio begins to provide the agreed upon health studio services;

(8) Clauses explaining the buyer's right to a refund and relief from future payment obligations after cancellation of the contract;

(9) A provision under a conspicuous caption in capital letters and boldface type stating substantially the following:

"BUYER'S RIGHT TO CANCEL

If you wish to cancel this contract without penalty, you may cancel it by delivering or mailing a written notice to the health studio. The notice must say that you do not wish to be bound by the contract and must be delivered or mailed before midnight of

the third business day after you sign this contract. The notice must be mailed to (insert name and mailing address of health studio). If you cancel within the three days, the health studio will return to you within thirty days all amounts you have paid."

Sec. 3. Section 6, chapter 317, Laws of 1987 and RCW 19.142.050 are each amended to read as follows:

After receipt of a written notice of cancellation, the health studio shall provide a refund to the buyer within thirty days. The health studio may require the buyer to return any membership card or other materials which evidence membership in the health studio. The buyer is entitled to a refund and relief from future obligations for payments of initiation or membership fees and use fees or dues as follows:

(1) The buyer is entitled to a refund of the unused portion of any prepaid use fees or dues and relief from future obligations to pay use fees or dues concerning use after the date of cancellation.

(2) (a) Subject to (b) of this subsection, if a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(a), the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee if the contract clearly states what percentage of the fee is nonrefundable or refundable.

(b) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(a) three years or more after the signing of the contract requiring payment of such fee, such fee is nonrefundable.

(3) If a contract includes (~~a one-time only~~) an initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7) (b) or (c), the buyer is entitled to a pro rata refund of the fee less a predetermined amount not to exceed one-half of the initial initiation or membership fee unless (~~the contract clearly states that the initiation or membership fee is nonrefundable, and the clause is separately signed by the buyer~~) the following clause is contained in the contract and signed separately by the buyer. The clause shall be placed under a conspicuous caption in capital letters and bold face type stating the following:

NONREFUNDABLE AMOUNT

I UNDERSTAND THAT I HAVE PAID OR AM OBLIGATED TO PAY AS AN INITIATION OR MEMBERSHIP FEE, AND THAT UNDER NO CIRCUMSTANCES IS ANY PORTION OF THIS AMOUNT REFUNDABLE.

(Buyer's Signature)

(4) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7)(d), the buyer is entitled to a pro rata refund of the fee.

(5) If a contract includes a one-time only initiation or membership fee and the buyer cancels pursuant to RCW 19.142.040(7) (e) or (f), the buyer is entitled to a full refund of the fee.

If a buyer is entitled to a pro rata refund under this section, the amount shall be computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. If no term is stated in the contract, a term of thirty-six months shall be used.

Passed the Senate February 6, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 56

[Senate Bill No. 6464]

COMMERCIAL DRIVER'S LICENSE—EXEMPTIONS

AN ACT Relating to exemptions from commercial driver's licenses; and amending RCW 46.25.050.

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

Sec. 1. Section 7, chapter 178, Laws of 1989 and RCW 46.25.050 are each amended to read as follows:

(1) Drivers of commercial motor vehicles shall obtain a commercial driver's license as required under this chapter by April 1, 1992. The director shall establish a program to convert all qualified commercial motor vehicle drivers by that date. After April 1, 1992, except when driving under a commercial driver's instruction permit and a valid automobile or classified license and accompanied by the holder of a commercial driver's license valid for the vehicle being driven, no person may drive a commercial motor vehicle unless the person holds and is in immediate possession of a commercial driver's license and applicable endorsements valid for the vehicle they are driving. However, this requirement does not apply to any person:

(a) Who is the operator of a farm vehicle, and the vehicle is:

(i) Controlled and operated by a farmer;

(ii) Used to transport either agricultural products, farm machinery, farm supplies, or any combination of those materials to or from a farm;

(iii) Not used in the operations of a common or contract motor carrier;

and

(iv) Used within one hundred fifty miles of the person's farm; (~~and~~

(v) Not transporting hazardous materials required to be identified by a placard;)) or

(b) Who is a fire fighter or law enforcement officer operating emergency equipment, and:

(i) The fire fighter or law enforcement officer has successfully completed a driver training course approved by the director; and

(ii) The fire fighter or law enforcement officer carries a certificate attesting to the successful completion of the approved training course; or

(c) Who is operating a recreational vehicle for noncommercial purposes. As used in this section, "recreational vehicle" includes a vehicle towing a horse trailer for a noncommercial purpose.

(2) No person may drive a commercial motor vehicle while his or her driving privilege is suspended, revoked, or canceled, while subject to disqualification, or in violation of an out-of-service order. Violations of this subsection shall be punished in the same way as violations of RCW 46.20.342(1).

Passed the Senate March 3, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 57

[Substitute Senate Bill No. 6642]

WASHINGTON MARKETPLACE PROGRAM

AN ACT Relating to the Washington Marketplace program; amending RCW 43.31.522, 43.31.524, and 43.31.526; and amending section 1, chapter 417, Laws of 1989 (uncodified).

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

Sec. 1. Section 1, chapter 417, Laws of 1989 (uncodified) is amended to read as follows:

The legislature finds and declares that substantial benefits in increased employment and business activity can be obtained by assisting businesses in identifying opportunities to purchase the goods and services they need from ~~((in-state))~~ Washington state suppliers rather than from out-of-state suppliers and in identifying new markets for Washington state firms to provide goods and services. The replacement of out-of-state imports with services and manufactured goods produced in-state can be an important source of economic growth in a local community especially in rural areas. Businesses in the state are often unaware that goods and services they purchase from out-of-state suppliers are available from in-state firms with substantial advantages in responsiveness, service, and price. Increasing the economic partnerships between businesses in Washington state can build bridges between urban and rural communities and can result in the identification of

additional opportunities for successful economic development initiatives. Providing additional information to businesses regarding in-state sources of goods and services can be a particularly valuable component of revitalization strategies in economically distressed areas. The legislature finds and declares that it is the policy of the state to strengthen the economies of local communities by increasing the economic partnerships between in-state businesses and creating programs to assist businesses in identifying in-state sources of goods and services, and in addition to identify new markets for Washington firms to provide goods and services.

Sec. 2. Section 2, chapter 417, Laws of 1989 and RCW 43.31.522 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout ~~((this act))~~ RCW 43.31.524 and 43.31.526:

(1) "Department" means the department of trade and economic development.

(2) "Center" means the business assistance center established under RCW 43.31.083.

(3) "Director" means the director of trade and economic development.

(4) "Local nonprofit organization" means a local nonprofit organization organized to provide economic development or community development services, including but not limited to associate development organizations, economic development councils, and community development corporations.

Sec. 3. Section 3, chapter 417, Laws of 1989 and RCW 43.31.524 are each amended to read as follows:

There is established a Washington marketplace program within the business assistance center established under RCW 43.31.083. The program shall assist ~~((Washington))~~ businesses to competitively meet their needs for goods and services within Washington state by providing information relating to the replacement of imports or the fulfillment of new requirements with ~~((in-state))~~ Washington products produced in Washington state. The program shall place special emphasis on strengthening rural economies in economically distressed areas of the state meeting the criteria of an "eligible area" as defined in RCW 82.60.020(3). The Washington marketplace program shall consult with the community revitalization team established pursuant to chapter 43.165 RCW.

Sec. 4. Section 4, chapter 417, Laws of 1989 and RCW 43.31.526 are each amended to read as follows:

(1) The department shall contract with local nonprofit organizations in at least ~~((four))~~ three economically distressed areas of the state~~((;))~~ that meet the criteria of an "eligible area" as defined in RCW 82.60.020(3)~~((;))~~ to implement the Washington marketplace program in these areas. The department, in order to foster cooperation and linkages between distressed and

nondistressed areas and urban and rural areas, may enter into joint contracts with multiple nonprofit organizations. ~~((Each joint contract must include at least one nonprofit organization that is located in a distressed area. No joint contract may include more than one nonprofit organization located in an urban location. In contracting with local nonprofit organizations, the department))~~ Contracts with economic development organizations to foster cooperation and linkages between distressed and nondistressed areas and urban and rural areas shall be structured by the department and the distressed area marketplace programs. Contracts with economic development organizations shall:

(a) Award contracts based on a competitive bidding process, pursuant to chapter 43.19 RCW;

(b) Give preference to nonprofit organizations representing a broad spectrum of community support; and

(c) Ensure that each location contain sufficient business activity to permit effective program operation ~~((and))~~.

The department may require that contractors contribute at least twenty percent local funding.

(2) The contracts with local nonprofit organizations shall be for, but not limited to, the performance of the following services for the Washington marketplace program:

(a) Contacting Washington state businesses to identify goods and services they are currently buying or are planning in the future to buy out-of-state and determine which of these goods and services could be purchased on competitive terms within the state;

(b) Identifying locally sold goods and services which are currently provided by out-of-state businesses;

(c) Determining, in consultation with local business, goods and services for which the business is willing to make contract agreements;

(d) Advertising market opportunities described in (c) of this subsection; and

(e) Receiving bid responses from potential suppliers and sending them to that business for final selection.

(3) Contracts may include provisions for charging service fees of businesses that profit as a result of participation in the program.

(4) The center shall also perform the following activities in order to promote the goals of the program:

(a) Prepare promotional materials or conduct seminars to inform communities and organizations about the Washington marketplace program;

(b) Provide technical assistance to communities and organizations interested in developing an import replacement program;

(c) Develop standardized procedures for operating the local component of the Washington marketplace program;

(d) Provide continuing management and technical assistance to local contractors; and

(e) Report by December 31 of each year to the senate economic development and labor committee and to the house of representatives trade and economic development committee describing the activities of the Washington marketplace program.

Passed the Senate February 8, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 14, 1990.

Filed in Office of Secretary of State March 14, 1990.

CHAPTER 58

[Second Substitute Senate Bill No. 6310]

REGIONAL FISHERIES ENHANCEMENT GROUPS

AN ACT Relating to providing financial assistance to regional fisheries enhancement groups; adding new sections to chapter 75.50 RCW; creating new sections; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature finds that: (1) It is in the best interest of the state to encourage nonprofit regional fisheries enhancement groups authorized in RCW 75.50.070 to participate in enhancing the state's salmon population including, but not limited to, salmon research, increased natural and artificial production, and through habitat improvement; (2) such regional fisheries enhancement groups interested in improving salmon habitat and rearing salmon shall be eligible for financial assistance; (3) such regional fisheries enhancement groups should seek to maximize the efforts of volunteer personnel and private donations; (4) this program will assist the state in its goal to double the salmon catch by the year 2000; (5) this program will benefit both commercial and recreational fisheries and improve cooperative efforts to increase salmon production through a coordinated approach with similar programs in other states and Canada; and (6) the Grays Harbor fisheries enhancement task force's exemplary performance in salmon enhancement provides a model for establishing regional fisheries enhancement groups by rule adopted under RCW 75.50.070, 75.50.080, and sections 2 through 4 of this act.

NEW SECTION. Sec. 2. A new section is added to chapter 75.50 RCW to read as follows:

Each regional fisheries enhancement group shall be incorporated pursuant to Title 24 RCW. Any interested person or group shall be permitted to join. It is desirable for the group to have representation from all categories of fishers and other parties that have interest in salmon within the region, as well as the general public.

NEW SECTION. Sec. 3. A new section is added to chapter 75.50 RCW to read as follows:

The dedicated regional fisheries enhancement group 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.

A surcharge of one dollar shall be collected on each recreational salmon license sold in the state. A surcharge of one hundred dollars shall be collected on each commercial salmon fishing license and each charter boat "salmon and other food fish" license sold in the state. The department shall study methods for collecting and making available, an annual list, including names and addresses, of all persons who obtain recreational and commercial salmon fishing licenses. This list may be used to assist formation of the regional fisheries enhancement groups and allow the broadest participation of license holders in enhancement efforts. The results of the study shall be reported to the house of representatives fisheries and wildlife committee and the senate environment and natural resources committee by October 1, 1990. All receipts shall be placed in the regional fisheries enhancement group account and shall be used exclusively for regional fisheries enhancement group projects for the purposes of section 4 of this act. Funds from the regional fisheries enhancement group account shall not serve as replacement funding for department operated salmon projects that exist on the effective date of this section.

All revenue from the department's sale of salmon carcasses and eggs that return to group facilities shall be deposited in the regional fisheries enhancement group account for use by the regional fisheries enhancement group that produced the surplus. The department shall adopt rules to implement this section pursuant to chapter 34.05 RCW.

NEW SECTION. Sec. 4. A new section is added to chapter 75.50 RCW to read as follows:

A regional fisheries enhancement group advisory board is established to make recommendations to the director. The advisory board shall make recommendations regarding regional enhancement group rearing project proposals and funding of those proposals. The members shall be appointed by the director and consist of two commercial fishing representatives, two recreational fishing representatives, and three at-large positions. The advisory board membership shall include two members serving ex officio to be nominated, one through the Northwest Indian fisheries commission, and one through the Columbia river intertribal fish commission.

The department may use account funds to provide agency assistance to the groups. The level of account funds used by the department shall be determined by the director after review and recommendation by the regional

fisheries enhancement group advisory board and shall not exceed twenty percent of annual contributions to the account.

NEW SECTION. Sec. 5. The department and the regional fisheries enhancement group advisory board shall report biennially to the senate environment and natural resources committee, the house of representatives fisheries and wildlife committee, the senate ways and means committee and house of representatives fiscal committees, or any successor committees beginning October 1, 1991. The report shall include but not be limited to the following:

- (1) An evaluation of enhancement efforts;
- (2) A description of projects;
- (3) A region by region accounting of financial contributions and expenditures including the enhancement group account funds; and
- (4) Volunteer participation and member affiliation.

NEW SECTION. Sec. 6. Section 3 of this act shall take effect January 1, 1991.

Passed the Senate March 6, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 59

[House Bill No. 2797]

ELECTION LAWS—UNIFICATION AND SIMPLIFICATION

AN ACT Relating to elections; amending RCW 29.01.006, 29.01.050, 29.27.020, 29.27.050, 29.30.010, 29.30.020, 29.30.060, 29.30.081, 29.30.101, 29.30.130, 29.33.020, 29.33.041, 29.33.051, 29.33.061, 29.33.081, 29.33.130, 29.33.230, 29.34.080, 29.34.085, 29.34.090, 29.34.143, 29.34.153, 29.34.157, 29.34.163, 29.34.167, 29.34.170, 29.48.010, 29.48.030, 29.48.070, 29.48.100, 29.51.010, 29.51.050, 29.51.060, 29.51.070, 29.51.100, 29.51.140, 29.51.150, 29.51.175, 29.51.180, 29.51.190, 29.51.240, 29.51.250, 29.54.010, 29.54.035, 29.54.050, 29.54.060, 29.54.170, 29.62.010, 29.62.040, 29.62.050, 29.64.030, 29.64.040, 29.64.050, 29.64.060, 29.71.020, 29.74.080, 29.82.130, 28A.57.435, 29.21.075, 29.45.060, 29.51.020, 29.36.130, 29.18.010, 29.18.015, 29.18.025, 29.18.040, 29.18.050, 29.18.105, 29.18.120, 29.18.200, 29.21.010, 29.21.015, 29.21.070, 29.21.140, 29.30.040, 28A.57.314, 28A.57.425, 29.04.180, 29.13.025, 29.18.150, 29.24.070, 29.68.080, 35A.29.105, 35A.29.110, 53.12.035, and 54.12.010; reenacting and amending RCW 29.42.040; adding new sections to chapter 29.01 RCW; adding a new section to chapter 29.04 RCW; adding new sections to chapter 29.30 RCW; adding new sections to chapter 29.33 RCW; adding a new section to chapter 29.51 RCW; adding new sections to chapter 29.54 RCW; adding a new section to chapter 29.85 RCW; adding a new chapter to Title 29 RCW; creating new sections; recodifying RCW 29.34.080, 29.34.085, 29.34.090, 29.34.143, 29.34.163, 29.34.170, 29.33.230, 29.34.153, 29.34.157, 29.34.167, 29.54.035, 29.13.075, 29.18.015, 29.18.025, 29.18.032, 29.18.040, 29.18.045, 29.18.050, 29.18.053, 29.18.055, 29.18.057, 29.18.070, 29.18.080, 29.18.105, 29.21.140, 29.21.350, 29.21.360, 29.21.370, 29.21.380, 29.21.385, 29.21.390, and 29.21.400; repealing RCW 29.18.020, 29.18.022, 29.18.030, 29.18.031, 29.18.035, 29.18.060, 29.18.090, 29.18.100, 29.18.110, 29.21.017, 29.21.020, 29.21.040, 29.21.060, 29.21.075, 29.21.080, 29.21.085, 29.21.090, 29.21.110, 29.21.120, 29.21.130, 29.21.150, 29.21.160, 29.21.180, 29.21.190, 29.21.200, 29.21.210, 29.21.220, 29.21.330, 29.27.010, 29.27.040, 29.27.045, 29.30.030, 29.30.061, 29.30.091, 29.30.310, 29.30.320, 29.30.330,

29.30.340, 29.30.350, 29.30.370, 29.30.380, 29.30.390, 29.30.410, 29.30.420, 29.30.430, 29.30.440, 29.30.450, 29.30.460, 29.30.480, 29.30.490, 29.33.010, 29.33.015, 29.33.090, 29.33.110, 29.33.120, 29.33.140, 29.33.150, 29.33.160, 29.33.170, 29.33.180, 29.33.190, 29.33.200, 29.33.210, 29.33.220, 29.34.010, 29.34.125, 29.34.130, 29.34.140, 29.34.145, 29.34.180, 29.51.080, 29.51.110, 29.51.120, 29.51.130, 29.51.160, 29.51.220, 29.51.260, 29.54.020, 29.54.030, 29.54.040, 29.54.043, 29.54.045, 29.54.070, 29.54.080, 29.54.090, 29.54.100, 29.54.110, 29.54.120, 29.54.130, and 29.54.140; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. By this act the legislature intends to unify and simplify the laws and procedures governing filing for elective office, ballot layout, ballot format, voting equipment, and canvassing.

Sec. 2. Section 1, chapter 361, Laws of 1977 ex. sess. and RCW 29.01.006 are each amended to read as follows:

As used in this title:

(1) ~~"Ballot" ((shall mean a paper ballot, a voting machine diagram, a ballot label, a ballot book, a ballot page, or any combination thereof))~~ means, as the context ~~((may imply))~~ implies, either:

(a) The issues and offices to be voted upon in a jurisdiction or portion of a jurisdiction at a particular primary, general election, or special election;

(b) A facsimile of the contents of a particular ballot whether printed on a paper ballot or ballot card or as part of a voting machine or voting device;

(c) A physical or electronic record of the choices of an individual voter in a particular primary, general election, or special election; or

(d) The physical document on which the voter's choices are to be recorded;

(2) ~~"Paper ballot" ((shall))~~ means a piece of paper ((whereon the candidates and measures to be voted upon)) on which the ballot for a particular election or ((a)) primary ((appear and upon)) has been printed, on which a voter may ((directly indicate a vote)) record his or her choices for any candidate or for or against any measure, and that is to be tabulated manually;

~~(3) ("Voting machine diagram" means an illustration of a voting machine complete with ballot labels prepared for a particular election or a primary;~~

~~(4)) "Ballot card" means any type of ((tabulating)) card or ((cards or ballots)) piece of paper of any size ((upon)) on which ((the)) a voter may record((s)) his ((vote and shall also include either a security flap or an envelope issued to each voter at ballot card precincts for the voter to conceal his voted ballot to insure secrecy and to provide a space for the voter to cast write-in votes if he so desires)) or her choices for any candidate and for or against any measure and that is to be tabulated on a vote tallying system;~~

~~((5)) "Ballot label" means the card or paper containing the names of offices and candidates and the statements of measures to be voted upon;~~

~~(6) "Ballot page" means the pages on the vote recorder used to display the printed ballot titles and the names of candidates together with properly aligned numbers of response positions;~~

~~(7) "Chad" means the piece of material which is removed or partially removed when punching a hole or notch in a prescored ballot card))~~ (4) "Sample ballot" means a printed facsimile of all the issues and offices on the ballot in a jurisdiction and is intended to give voters notice of the issues, offices, and candidates that are to be voted on at a particular primary, general election, or special election.

NEW SECTION. Sec. 3. A new section is added to chapter 29.01 RCW to read as follows:

"Canvassing" means the process of examining ballots or groups of ballots, subtotals, and cumulative totals in order to determine the official returns of and prepare the certification for a primary or general election and includes the tabulation of any votes for that primary or election that were not tabulated at the precinct or in a counting center on the day of the primary or election.

NEW SECTION. Sec. 4. A new section is added to chapter 29.01 RCW to read as follows:

"Counting center" means the facility or facilities designated by the county auditor in which the canvassing of ballots on a vote tallying system is conducted on the day of a primary or election.

Sec. 5. Section 29.01.050, chapter 9, Laws of 1965 and RCW 29.01-.050 are each amended to read as follows:

"Election" when used alone means a general election except where the context indicates that a special election is ~~((meant))~~ included. "Election" when used without qualification ~~((never means))~~ does not include a primary ~~((election))~~.

NEW SECTION. Sec. 6. A new section is added to chapter 29.01 RCW to read as follows:

(1) "Voting system" means a voting device, vote tallying system, or combination of these together with ballots and other supplies or equipment used to conduct a primary or election or to canvass the votes cast in a primary or election;

(2) "Voting device" means a piece of equipment used for the purpose of or to facilitate the marking of a ballot to be tabulated by a vote tallying system or a piece of mechanical or electronic equipment used to directly record votes and to accumulate results for a number of issues or offices from a series of voters; and

(3) "Vote tallying system" means a piece of mechanical or electronic equipment and associated data processing software used to tabulate votes cast on ballot cards or otherwise recorded on a voting device or to prepare that system to tabulate ballot cards or count votes.

NEW SECTION. Sec. 7. A new section is added to chapter 29.04 RCW to read as follows:

The secretary of state shall adopt rules to:

- (1) Establish standards for the design, layout, and production of ballots;
- (2) Provide for the examination and testing of voting systems for certification;
- (3) Specify the source and scope of independent evaluations of voting systems that may be relied upon in certifying voting systems for use in this state;
- (4) Establish standards and procedures for the acceptance testing of voting systems by counties;
- (5) Establish standards and procedures for testing the programming of vote tallying software for specific primaries and elections;
- (6) Establish standards and procedures for the preparation and use of each type of certified voting system including procedures for the operation of counting centers where vote tallying systems are used;
- (7) Establish standards and procedures to ensure the accurate tabulation and canvassing of ballots;
- (8) Provide consistency among the counties of the state in the preparation of ballots, the operation of vote tallying systems, and the canvassing of primaries and elections;
- (9) Ensure the secrecy of a voter's ballot when a small number of ballots are counted at the polls or at a counting center;
- (10) Govern the use of substitute devices or means of voting when a voting device at the polling place is found to be defective, the counting of votes cast on the defective device and from the substitute device or means, and the documentation that must be submitted to the county auditor regarding such circumstances; and
- (11) Govern the transportation of sealed containers of voted ballots or sealed voting devices.

The secretary shall publish proposed rules implementing this section not later than December 15, 1991.

Sec. 8. Section 29.27.020, chapter 9, Laws of 1965 as amended by section 4, chapter 103, Laws of 1965 ex. sess. and RCW 29.27.020 are each amended to read as follows:

~~((Prior to any September primary;))~~ On or before the ((first Wednesday)) day following the last day for political parties to fill vacancies in the ticket as provided by RCW 29.18.150, the secretary of state shall ((transmit)) certify to each county auditor a ((certified)) list of the candidates ((for office to be voted for in each county as represented by the)) who have filed declarations of candidacy ((and nomination papers filed)) in his or her office for the primary. For each office, the certificate shall ((set

forth)) include the name of each candidate, his ~~((post-office))~~ or her address, ~~((the office for which he is a candidate))~~ and his or her party designation, if any.

Sec. 9. Section 29.27.050, chapter 9, Laws of 1965 as amended by section 7, chapter 103, Laws of 1965 ex. sess. and RCW 29.27.050 are each amended to read as follows:

~~((As soon as possible but in any event))~~ No later than the ~~((fifth))~~ day following ~~((official))~~ the certification of the returns of any primary ~~((election as made by the canvassing board))~~, the secretary of state shall certify to the appropriate county auditors ~~((of each county within which any of the electors may by law vote for candidates for such office))~~, the names ~~((and place of residence))~~ of ~~((each))~~ all persons nominated for ~~((such office, as specified in the certificates of nomination filed with))~~ offices, the returns of which have been canvassed by the secretary of state.

Sec. 10. Section 29.30.010, chapter 9, Laws of 1965 as last amended by section 10, chapter 167, Laws of 1986 and RCW 29.30.010 are each amended to read as follows:

Every ~~((primary paper))~~ ballot for a single combination of issues and offices shall be uniform ~~((in color and size,))~~ within a precinct and shall ~~((be white and printed in black ink. Each ballot shall be identified at the top with the words, "Primary Election Ballot," and below that))~~ identify the type of primary or election, the county ~~((in which the ballot is to be used)),~~ and the date of the primary or election, and the ballot or voting device shall contain instructions on the proper method of recording a vote, including write-in votes ~~((: "To vote for a person mark a cross in the first square at the right of the name of the person for whom you desire to vote. To vote for a person not on the ballot, write in the name of the candidate, and the party affiliation if for a partisan office, in the space provided." Beginning at the top of the left hand column, at the left of the line shall appear the name of the position for which the names following are candidates, and to the extreme right of the same line the words, "Vote for," then the words "One," "Two," or a spelled number designating how many persons under that head are to be voted for. Below this shall come the names of all candidates for that position, each followed by the name of the political party, if any, with which the candidate desires to affiliate or the word "nonpartisan", with a square to the right)).~~ Each position, together with the names ~~((running))~~ of the candidates for that office, shall be clearly separated from ~~((the following one by a bold line. All primary paper ballots shall be sequentially numbered, but done in such a way to permit removal of such numbers without revealing the identity of any individual voter. There shall be no printing upon the back of the ballots nor any mark thereon to distinguish them))~~ other offices or positions in the same jurisdiction. The offices in each jurisdiction shall be clearly separated from each other. No paper ballot or ballot

card may be marked in any way that would permit the identification of the person who voted that ballot.

Sec. 11. Section 29.30.020, chapter 9, Laws of 1965 as last amended by section 52, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.020 are each amended to read as follows:

~~((In precincts using paper ballots and on absentee paper ballots;))~~ The positions or offices on a ((state)) primary ballot shall be arranged in substantially the following order: United States senator; United States representative; governor; lieutenant governor; secretary of state; state treasurer; state auditor; attorney general; commissioner of public lands; superintendent of public instruction; insurance commissioner; state senator; state representative; county officers; ((superintendent of public instruction;)) justices of the supreme court; judges of the court of appeals; judges of the superior court; and judges of the district court. For all other jurisdictions ((appearing)) on the primary ballot, the offices in each jurisdiction shall be grouped together and be in the order of the position numbers assigned to those offices, if any. ((Unless otherwise specified by law, the names shall be listed in order of filing. There shall be a blank space left following the list of names of candidates for each office or position for writing in the name of a candidate, if desired:))

The order of the positions or offices on an election ballot shall be substantially the same as on a primary ballot except that the offices of president and vice-president of the United States shall precede all other offices on a presidential election ballot. State ballot issues shall be placed before all offices on an election ballot. The positions on a ballot to be assigned to ballot measures regarding local units of government shall be established by the secretary of state by rule.

The political party or independent candidacy of each candidate for partisan office shall be indicated next to the name of the candidate on the primary and election ballot.

Sec. 12. Section 29.30.060, chapter 9, Laws of 1965 as last amended by section 3, chapter 295, Laws of 1987 and RCW 29.30.060 are each amended to read as follows:

Except in class AA counties ((or portions of counties using paper ballots)), on or before the fifteenth day before a primary or ((an)) election, the county auditor shall prepare a sample ((paper)) ballot which shall be ((displayed in a conspicuous place in the county auditor's office for public inspection)) made readily available to members of the public. The secretary of state shall adopt rules governing the preparation of sample ballots in class AA counties. The rules shall permit, among other alternatives, the preparation of more than one sample ballot by a class AA county for a primary or election, each of which lists a portion of the offices and issues to be voted on in that county. ((Sample paper ballots shall be substantially in the same form as the official paper ballots but upon colored paper. The names

~~of the candidates in the primary for each office shall be arranged on the sample ballot in the order provided by RCW 29.18.022 and 29.18.045, and the names of candidates in the general election for each office shall be in the order in which their names appear on the official ballot, as provided in RCW 29.30.081(2), except that)~~ The position of precinct committee officer shall be shown on the ((general election)) sample ballot ((only by a listing of the position itself, and)) for the general election, but the names of candidates ((therefor)) for the individual positions need not be shown.

Sec. 13. Section 60, chapter 361, Laws of 1977 ex. sess. as last amended by section 11, chapter 167, Laws of 1986 and RCW 29.30.081 are each amended to read as follows:

(1) On the top of each ~~((general election paper))~~ ballot there shall be printed instructions directing the voters how to mark the ballot, including write-in votes. ~~((Next))~~ After the instructions and before the offices shall be placed the questions of adopting constitutional amendments or any other state measure authorized by law to be submitted to the voters ((of such)) at that election.

(2) The candidate or candidates of the major political party which received the highest number of votes from the electors of this state for the office of president of the United States at the last presidential election shall appear first ~~((below))~~ following the appropriate office heading, the candidate or candidates of the other major political parties shall follow according to the votes cast for their nominees for president at the last presidential election, and independent candidates and the candidate or candidates of all other parties shall follow in the order of their qualification with the secretary of state. ((The candidates for nonpartisan offices shall be listed in the manner otherwise provided by law. There shall be blank spaces for writing in the name of any candidate, if desired, on the ballot:))

(3) ~~((There shall be a at the right of the name of each nominee so that a voter may clearly indicate the candidate or the candidates for whom he wishes to cast his ballot.~~

~~(4) Under the designation of the office there shall be indicated the number of candidates to such office to be voted for at such election.~~

~~(5) If the election is in a year in which a president of the United States is to be elected,))~~ The names of candidates for president and vice-president for each political party shall be grouped together((, each group enclosed in brackets)) with a single ~~((square to the right in which the))~~ response position for a voter to indicate((s) his or her choice.

~~((6))~~ (4) All paper ballots ((for general elections)) and ballot cards shall be sequentially numbered((, but done)) in such a way to permit removal of such numbers without leaving any identifying marks on the ballot. ((There shall be no printing on the back of the paper ballots nor any mark thereon to distinguish them:))

Sec. 14. Section 58, chapter 361, Laws of 1977 ex. sess. as amended by section 4, chapter 295, Laws of 1987 and RCW 29.30.101 are each amended to read as follows:

The names of the persons certified as ~~((the))~~ nominees ~~((resulting from a primary election))~~ by the secretary of state or the county canvassing board shall be printed on the ~~((official))~~ ballot ~~((prepared for))~~ at the ensuing election.

No name of any candidate whose nomination at a primary is required by law shall be placed upon the ballot at a general or special election unless it appears upon the certificate of either (1) the secretary of state, or (2) the county canvassing board, or (3) a minor party convention~~(;)~~ or ~~((4) of)~~ the state or county central committee of a major political party to fill a vacancy on its ticket ~~((occasioned by any cause on account of which it is lawfully authorized so to do))~~ under RCW 29.18.160.

~~((No person who has offered himself or herself as a candidate for the nomination of one party at the primary shall have the person's name printed on the ballot of the succeeding general election as the candidate of another political party.~~

~~No))~~ Excluding the office of precinct committee officer, a candidate's name shall not appear more than once upon ((the)) a ballot~~((, unless the name appears once for the office of precinct committee officer, in which case the name may appear not more than twice. PROVIDED, That any candidate who has been nominated by two or more political parties may, upon a written notice filed with the county auditor within three days after the certification of the canvass of the primary, designate the political party under whose title the person desires to have his or her name placed)).~~

NEW SECTION. Sec. 15. A new section is added to chapter 29.30 RCW to read as follows:

The name of a candidate for a city, town, or district office shall not appear on the ballot at the general election unless the candidate received at least five percent of the total votes cast for that office at the primary.

Sec. 16. Section 29.30.130, chapter 9, Laws of 1965 and RCW 29.30.130 are each amended to read as follows:

The cost of printing ((of)) ballots ((and)), ballot cards ((of)), and instructions ((for electors)) and the delivery of ((the same)) this material to the precinct election officers shall be ((a charge against the county, city, town or other political subdivision by or for which the election is held)) an election cost that shall be borne as determined under RCW 29.13.045 and 29.13.047, as appropriate.

Sec. 17. Section 29.33.020, chapter 9, Laws of 1965 as amended by section 12, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.020 are each amended to read as follows:

At ~~((all))~~ any primary or election~~((s, ballots or))~~ in any county, votes may be cast, registered, recorded ~~((and)),~~ or counted by means of voting ~~((machines, paper ballots, ballot cards, voting devices and vote tallying))~~ systems that have been approved under RCW 29.33.041. ~~((The provisions of all statutes, charters and ordinances relating to elections and primaries shall apply to the use of voting machines, paper ballots, ballot cards, voting devices and vote tallying systems insofar as they are consistent with the provisions of this 1967 amendatory act, insofar as they are inconsistent, they shall be of no force and effect in precincts where voting machines, paper ballots, ballot cards, voting devices and vote tallying systems are used.))~~

Sec. 18. Section 1, chapter 40, Laws of 1982 and RCW 29.33.041 are each amended to read as follows:

The secretary of state shall inspect, evaluate, and publicly ~~((examine and report on))~~ test all voting ~~((machines, voting devices, and vote tally))~~ systems or components of voting systems that are submitted ~~((to the secretary))~~ for review under RCW 29.33.051. The secretary of state shall determine whether the voting ~~((machines, voting devices, and vote tally))~~ systems conform with ~~((statutory))~~ all of the requirements of this title, the applicable rules adopted in accordance with this title, and with generally accepted safety requirements. The secretary of state shall ~~((submit))~~ transmit a copy of the report of any examination under this section, within thirty days after completing the examination, to the ~~((board of county commissioners and the))~~ county auditor of each county ~~((and to all other persons requesting a copy)).~~

Sec. 19. Section 2, chapter 40, Laws of 1982 and RCW 29.33.051 are each amended to read as follows:

~~((Any owner))~~ The manufacturer or distributor of a voting ~~((machine; voting device, or vote tally))~~ system or ~~((any interested person))~~ component of a voting system may submit ~~((the voting machine, voting device, or vote tally))~~ that system or component to the secretary of state for examination under RCW 29.33.041.

Sec. 20. Section 3, chapter 40, Laws of 1982 and RCW 29.33.061 are each amended to read as follows:

(1) The secretary of state may ~~((employ not more than three))~~ rely on the results of independent design, engineering, and performance evaluations in the examination under RCW 29.33.041 if the source and scope of these independent evaluations are specified by rule.

(2) The secretary of state may contract with experts in ~~((one or more of the fields of))~~ mechanical or electrical engineering~~((;))~~ or data processing ~~((machinery))~~ to assist ~~((the secretary))~~ in examining ~~((the))~~ a voting ~~((machines, voting devices, or vote tally systems))~~ system or component. The ~~((experts shall receive reasonable compensation in an amount to be established by the secretary which compensation shall be paid))~~ manufacturer

or distributor who has submitted a voting system for testing under RCW 29.33.051 shall pay the secretary of state a deposit to reimburse the cost of any contract for consultation under this section and for any other unrecoverable costs associated with the examination of a voting system or component by the ((person)) manufacturer or distributor who ((submits)) submitted the voting ((machine, voting device, or vote tally)) system or component for examination.

Sec. 21. Section 4, chapter 40, Laws of 1982 and RCW 29.33.081 are each amended to read as follows:

If voting systems or devices or vote tallying systems are to be used for conducting a primary or election, only ((voting machines, voting devices, and vote tally systems which)) those that have the approval of the secretary of state or had been approved under this chapter or chapter 29.34 RCW before March 22, 1982, may be used ((for conducting any election)). Any modification, change, or improvement ((of the)) to any voting ((machines, voting devices, or vote tally systems)) system or component of a system that does not impair ((their)) its accuracy, efficiency, or capacity or extend its function, may be made without ((the necessity of a)) reexamination or reapproval by the secretary of state under RCW 29.33.041.

Sec. 22. Section 29.33.130, chapter 9, Laws of 1965 and RCW 29.33-.130 are each amended to read as follows:

The county auditor of a county((, the city clerk, or proper officer of a district,)) in which voting ((machines)) systems are ((to be)) used ((shall cause them to be properly prepared therefor, and for that purpose shall)) is responsible for the preparation, maintenance, and operation of those systems and may employ ((for such time as is necessary one or more competent persons who shall be election officers known as the voting machine custodians. Voting machine custodians shall be sworn to perform their duties honestly and faithfully, and shall be paid for the time actually spent in the discharge of their duties. One custodian shall be employed for each twenty machines; if more than one is employed they shall be selected from the political parties entitled to representation on a board of election officers)) and direct persons to perform some or all of these functions.

NEW SECTION. Sec. 23. A new section is added to chapter 29.33 RCW to read as follows:

An agreement to purchase or lease a voting system or a component of a voting system is subject to that system or component passing an acceptance test prescribed by the secretary of state sufficient to demonstrate that the equipment is identical to that certified by the secretary of state and that the equipment is operating correctly as delivered to the county.

Sec. 24. Section 29.33.230, chapter 9, Laws of 1965 and RCW 29.33-.230 are each amended to read as follows:

Except for reopening to make a recanvass, the registering mechanism of each ~~((machine))~~ mechanical voting device used in any primary or election shall remain ~~((locked and))~~ sealed ~~((against operation for thirty))~~ until ten days ~~((following any state or county))~~ after the completion of the canvass of that primary or election ~~((and for eight days following any primary or election held by a city or other constituency not greater than a))~~ in that county. Except where provided by a rule adopted under section 7 of this 1990 act, voting devices used in a primary or election shall remain sealed until ten days after the completion of the canvass of that primary or election in that county.

NEW SECTION. Sec. 25. A new section is added to chapter 29.33 RCW to read as follows:

In preparing a voting device for a primary or election, a record shall be made of the ballot format installed in each device and the precinct or portion of a precinct for which that device has been prepared. Except where provided by a rule adopted under section 7 of this act, after being prepared for a primary or election, each device shall be sealed with a uniquely numbered seal and provided to the inspector of the appropriate polling place.

Sec. 26. Section 18, chapter 109, Laws of 1967 ex. sess. as last amended by section 6, chapter 40, Laws of 1982 and RCW 29.34.080 are each amended to read as follows:

No voting device shall be approved by the secretary of state unless it ~~((is constructed so that it))~~:

- (1) Secures to the voter secrecy in the act of voting;
- ~~((2))~~ ~~((Provides facilities for voting for the candidate of as many political parties or organizations as may make nominations, and for or against as many measures as may be submitted;~~
- ~~((3))~~ (3) Permits the voter to vote for any person for any office and upon any measure that he or she has the right to vote for;
- ~~((4))~~ (3) Permits the voter to vote for all the candidates of one party or in part for the candidates of one or more other parties;
- ~~((5))~~ (4) Correctly registers all votes cast for any and all persons and for or against any and all measures;
- ~~((6))~~ (5) Provides that a vote for more than one candidate cannot be cast by one single operation of the voting device or vote tally system except when voting for president and vice-president of the United States; and
- ~~((7))~~ ~~Lists all candidates for any office in every primary and election, special or general;~~
- (6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction.

Sec. 27. Section 1, chapter 143, Laws of 1983 as last amended by section 1, chapter 155, Laws of 1989 and RCW 29.34.085 are each amended to read as follows:

~~((No voting device may))~~ The ballot on a single voting device shall not contain the names of candidates for the offices of United States representative, state senator, state representative, county council, or county commissioner in more than one district. In all general elections, primaries, and special elections, in each polling place the voting devices containing ~~((ballot pages))~~ ballots for candidates from each congressional, legislative, or county council or commissioner district shall be grouped together and physically separated from those devices containing ~~((ballot pages))~~ ballots for other districts. Each voter shall be directed by the precinct election officers to the correct group of voting devices.

Sec. 28. Section 19, chapter 109, Laws of 1967 ex. sess. as amended by section 7, chapter 40, Laws of 1982 and RCW 29.34.090 are each amended to read as follows:

~~((No))~~ The secretary of state shall not approve a vote tallying system ~~((shall be approved by the secretary of state))~~ unless it ~~((is constructed so that it is))~~:

(1) ~~((Capable of))~~ Correctly ~~((counting))~~ counts votes on ballots ~~((or ballot cards))~~ on which the proper number of votes have been marked for any office or ~~((question or))~~ issue ~~((that has been voted))~~;

(2) ~~((Capable of ignoring the))~~ Ignores votes marked for any office or ~~((question or))~~ issue where more than the allowable number of votes have been marked, but ~~((shall))~~ correctly counts the properly voted portions of the ballot ~~((or ballot card))~~;

(3) ~~((Capable of accumulating))~~ Accumulates a count of the specific number of ballots ~~((or ballot cards))~~ tallied for ~~((a))~~ each precinct, ~~((accumulating))~~ total votes by candidate for each office, and ~~((accumulating))~~ total votes for and against each ~~((question and))~~ issue of the ~~((ballots or ballot cards tallied for a))~~ ballot in that precinct;

(4) ~~((Capable of accommodating))~~ Accommodates rotation of candidates' names on the ballot ~~((or ballot card, provided that all ballots or ballot cards from one precinct shall be of the same rotation sequence))~~ under RCW 29.30.040;

(5) ~~((Capable of automatically producing))~~ Produces precinct and cumulative totals in ~~((either))~~ printed ~~((, marked, or punched))~~ form ~~((, or combinations thereof))~~; and

(6) Except for functions or capabilities unique to this state, has been tested, certified, and used in at least one other state or election jurisdiction.

Sec. 29. Section 69, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.143 are each amended to read as follows:

(1) Before each state primary or general election at which voting ~~((devices))~~ systems are to be used, ~~((or more frequently as he deems necessary,))~~ the county auditor ~~((or other election official))~~ shall instruct all ~~((inspectors and judges of elections who are to serve at that primary or~~

~~general election in the use of the voting devices and))~~ precinct election officers appointed under RCW 29.45.010, counting center personnel, and political party observers designated under RCW 29.34.153 as recodified by this 1990 act in the proper conduct of their duties ((in conjunction with the conduct of that primary or election)).

(2) ~~The county auditor may waive instructional requirements for ((inspectors and judges of elections))~~ precinct election officers, counting center personnel, and political party observers who have previously ((have been granted a certificate of proficiency)) received instruction and who have served ((as precinct officers)) for a sufficient length of time to be fully qualified to perform their duties ((in connection with the voting device: PROVIDED, That any inspectors and judges of elections for whom the instructional requirements are waived may at their discretion take advantage of the instructional program outlined herein. He shall give to each inspector or judge who has received instruction and is qualified to conduct the primary or election with the voting devices, a certificate to that effect. For the purpose of instruction, the county auditor or other election officials shall call such meetings of the inspectors or judges as may be necessary)). The county auditor shall keep a record of each person who has received instruction and is qualified to serve at the subsequent primary or election.

(3) As compensation for the time spent in receiving instruction, each ~~((inspector or judge))~~ precinct election officer who qualifies and serves at the subsequent primary or election shall receive an additional two hours compensation, to be paid ~~((to him))~~ at the same time and in the same manner as compensation is paid ~~((him))~~ for ~~((his))~~ services on the day of the primary or election.

(4) Except for the appointment of a precinct election officer to fill a vacancy under RCW 29.45.040, no inspector or judge ((of election shall)) may serve at any primary or ((general)) election at which voting ((devices)) systems are used unless he or she has received the required instruction and is qualified to perform his or her duties in connection with the voting devices ((and has received a certificate to that effect from the county auditor or other election official: PROVIDED, That this shall not prevent the appointment of an inspector or judge of election to fill a vacancy in an emergency)). No person may work in a counting center at a primary or election at which a vote tallying system is used unless that person has received the required instruction and is qualified to perform his or her duties in connection with the handling and tallying of ballots for that primary or election. No person may serve as a political party observer unless that person has received the required instruction and is familiar with the operation of the counting center and the vote tallying system and the procedures to be employed to verify the accuracy of the programming for that vote tallying system.

Sec. 30. Section 71, chapter 361, Laws of 1977 ex. sess. and RCW 29-34.153 are each amended to read as follows:

~~((The county auditor shall determine the location of the counting center for each vote tallying system under his jurisdiction and the number of ballot card precincts assigned to each. Such facility may be located wherever in the judgment of the county auditor best serves the voters:~~

~~All proceedings at))~~ (1) The counting center in a county using voting systems shall be under the direction of the county auditor and ((under the observation of at least two observers, who shall not be from the same)) shall be observed by one representative from each major political party, if representatives have been appointed by the ((county chairman of the)) respective major political ((party. Such)) parties and these representatives are present while the counting center is operating. The proceedings shall be open to the public, but no persons except those employed and authorized ((for the purpose shall)) by the county auditor may touch any ballot ((card)) or ballot container or operate a vote tallying system.

~~((Technical assistance from private vendors to the county auditor shall be limited to advice and assistance in the training of precinct election officers and counting center personnel and the development of instructional materials for use in such training, routine maintenance and repair service on the voting devices and vote tallying systems, and any emergency assistance required due to the mechanical failure of any voting device or vote tallying system. Private vendors may provide the compilation of computer programs and preparation of office and report files according to the specifications established by the county auditor for a specific primary or election. All precinct program cards shall be prepared by the county auditor or the staff of his office. Ballot layout functions are to be performed by the secretary of state for federal offices and state-wide measures and offices, and by the county auditor for all other measures and offices.))~~ (2) The political party observers, upon mutual agreement, may request that a precinct be selected at random on receipt of the ballots from the polling place and that a manual count be made of the number of ballots and of the votes cast on any office or issue. The ballots for that precinct shall then be counted by the vote tallying system, and this result shall be compared to the results of the manual count. This may be done as many as three times during the tabulation of ballots on the day of the primary or election.

Sec. 31. Section 72, chapter 361, Laws of 1977 ex. sess. and RCW 29-34.157 are each amended to read as follows:

(1) At the direction of the county auditor, a team or teams composed of a representative of each major political party shall ((together)) stop at ((each)) designated polling places and pick up the sealed containers ((containing the)) of voted ballots ((cards)) for delivery to the counting center. There may be ((as many as two such stops at)) more than one delivery from each polling place((, but the first stop may not be made prior to 2:00 p.m.

and the second stop may not be made until after the polls have been closed to voting:

The procedure for transporting voted ballot cards from the respective polling places to the counting center or to predesignated collection stations shall include, but not be limited to, the following measures:

(1) ~~On the day of the primary or election in precincts where ballots are cast on voting devices;)~~ Two precinct election officials, one representing each major political party, shall ~~((place at))~~ seal the voted ballots in ~~((noncombustible, water-resistant ballot))~~ containers~~((;))~~ furnished by the county auditor and properly identified with his ~~((mailing))~~ or her address~~((; and seal the containers))~~ with uniquely prenumbered seals. ~~((The precinct election officials of each major political party or representative of each major political party designated by the county auditor to deliver such ballots shall transport the sealed ballot containers to the counting center or to a predesignated collection station in an enclosed vehicle, making certain that all doors and windows thereof other than those windows necessary for adequate ventilation are closed and locked.))~~

(2) At the counting center or the collection stations where the sealed ballot containers are delivered by the designated representatives of the major political parties, the county auditor or ~~((his))~~ a designated representative of the county auditor shall receive the sealed ballot containers ~~((with the voted ballot cards enclosed))~~, record the time ~~((and))~~, date ~~((together with each))~~, precinct name or number, and seal number~~((, and complete signed receipts indicating the time, date, and precinct and seal number))~~ of each ballot container ~~((received, and give a copy of such receipt to the representatives delivering the ballot containers as such containers are received.~~

~~(3) If the ballot containers are delivered to the collection station instead of being delivered directly to the counting center, the county auditor or his designated representative shall transfer such election containers to the counting center in an enclosed vehicle, making certain that all doors and windows thereof other than those windows necessary for adequate ventilation are closed and locked. All ballots being so transferred shall be accompanied by two appointed officials, who shall not be of the same political party, and a representative of the county auditor, who may be one of the appointed officials).~~

Sec. 32. Section 73, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.163 are each amended to read as follows:

At least three days ~~((prior to the day of the))~~ before each state primary or general election, ~~((at))~~ the programming for ~~((the))~~ each vote tallying system to be used at that primary or general election shall be tested by the office of the secretary of state ~~((or his designee to ascertain))~~ to verify that the ~~((equipment))~~ system will correctly count the vote cast for all candidates and on all measures appearing on the ballot at that primary or general election. The tests shall be conducted by processing a preaudited group of

ballots (~~((prepared by the office of secretary of state, so punched or))~~ marked ~~((as to record))~~ with a predetermined number of ballot votes for each candidate and for and against each measure. For each office for which there are two or more candidates and for each issue, the group of test ballots shall include one or more ballots which have votes in excess of the number allowed by law, in order to verify the ability of the vote tallying system to reject such votes. The test shall ~~((be designed to))~~ verify the capability of the vote tallying system to perform all of the functions that can reasonably be expected to occur during conduct of that particular primary or election ~~((, including but not limited to verification of the content of the ballot format for each precinct or polling place, verification of rotation in the program, and verification of major error identification routines in the program of the vote tallying system))~~. If any error is detected, the cause ~~((thereof))~~ shall be ~~((ascertained))~~ determined and corrected, and an errorless ~~((count))~~ total shall be ~~((made before the programming is approved and certified))~~ produced before the primary or election.

Such tests shall be observed by at least ~~((two observers, who shall not be of the same))~~ one representative from each major political party, ((designated)) if representatives have been appointed by the ~~((county chairmen of the))~~ respective ~~((county central committees))~~ major political parties and are present at the test, and shall be open to candidates, the press, and the public. The secretary of state, the county auditor, and ~~((the))~~ any political party observers shall certify that the test has been ~~((properly))~~ conducted in accordance with this section. Copies of ~~((such))~~ this certification shall be retained by the secretary of state and the county auditor. All programming materials, test results, and test ballots shall be securely ~~((locked in a non-combustible, water resistant container, and))~~ sealed until the day of the primary or general election. ~~((This test shall be repeated immediately before the start of the official count of ballots in the same manner as set forth above:))~~

~~The political party observers, upon mutual agreement, may request a precinct, to be selected at random, at the point of check-in, and manually take a total count of ballots and/or a total count for any one office, return that precinct to the counting center, and request a detailed printout. This may be done as many as three times during the official count so that the accuracy of the proceedings can be again verified by the count of the pre-audited group of ballots:))~~

Sec. 33. Section 74, chapter 361, Laws of 1977 ex. sess. and RCW 29-.34.167 are each amended to read as follows:

(1) The ballots ~~((cards))~~ picked up from the precincts during the polling hours may ~~((subsequently))~~ be counted before the polls have closed ~~((: PROVIDED, That all such))~~. Election returns from the count of these ballots must be held in secrecy ((in the same manner as the count of paper ballots during polling hours)) until the polls have been closed as provided by

~~((RCW 29.54.030)) section 54 of this 1990 act. ((Any person revealing any election returns to unauthorized persons prior to the close of the polls shall be subject to the same penalties as provided by RCW 29.54.035.))~~

~~(2) Upon breaking the seals and opening the ballot containers from the precincts, all voted ballots ~~((cards))~~ shall be ~~((checked for partially removed chads, whereupon any such partially removed chads shall be entirely removed from the ballot cards))~~ manually inspected for damage, write-in votes, and incorrect or incomplete marks. If it is found that any ballot is damaged ((or defective)) so that it cannot properly be counted by the vote tallying system, a true duplicate copy shall be made of the damaged ballot in the presence of witnesses and substituted for the damaged ballot. All ~~((such))~~ damaged ballots shall be kept by the county auditor until sixty days after the primary or election ~~((concerned))~~.~~

~~(3) The returns ((printed))~~ produced by the vote tallying system, to which ~~((has))~~ have been added the counts of questioned ballots, ~~((challenged ballots;))~~ write-in votes, and absentee votes, ~~((shall))~~ constitute the official returns of the primary or election in that county.

Sec. 34. Section 32, chapter 109, Laws of 1967 ex. sess. as amended by section 75, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.170 are each amended to read as follows:

The secretary of state ~~((; upon promulgating the rules and regulations necessary for carrying out the purpose of this chapter;))~~ shall publish manuals ~~((containing the))~~ of recommended procedures for the operation of the various vote tallying systems that have been approved. These manuals shall contain any applicable rules and ((regulations and)) statutes ((for the guidance of the county auditor)) relating to the printing of ballots ~~((cards))~~ and preparation and testing of the various vote tallying systems, ((for) the ((guidance)) duties and functions of the precinct election officers ((serving ballot card precincts)), and ((for) the ((guidance of election officers)) duties and functions of the counting center personnel and operators of ((tabulating equipment)) vote tallying systems at counting centers.

~~((There shall be no charge for such manuals, and the number to be printed and the distribution thereof shall be determined by the secretary of state.))~~

Sec. 35. Section 29.48.010, chapter 9, Laws of 1965 and RCW 29.48-.010 are each amended to read as follows:

The ~~((inspectors of election at the expense of the county or other constituency))~~ county auditor shall provide in ~~((their respective))~~ each polling place ~~((s))~~ a sufficient number of voting booths or ((compartments, which shall be furnished with the)) voting devices along with any supplies ((and conveniences)) necessary to enable the voter ~~((conveniently to prepare))~~ to mark or register his or her choices on the ballot ((for voting, and in which electors may mark their ballots, screened from observation, and a guardrail so constructed that only persons within the rail can approach within fifty

~~feet of the ballot boxes, or compartments:)) and within which the voters may cast their votes in secrecy. Where paper ballots are used for voting, the number of ((compartments)) voting booths shall ((not)) be ((less than)) at least one for every fifty ((electors or fraction thereof)) registered voters in the precinct ((or voting at the last preceding election where there is no registration. In precincts containing less than twenty-five voters, the election may be conducted without the preparation of compartments)).~~

Sec. 36. Section 29.48.020, chapter 9, Laws of 1965 as last amended by section 81, chapter 361, Laws of 1977 ex. sess. and RCW 29.48.030 are each amended to read as follows:

No later than the day before ((the hour for opening the polls at any)) a primary or election ((and allowing a reasonable time for preparation thereof)), the county auditor ((or other officer in charge of such primary or election)) shall ((deliver)) provide to the inspector or one of the judges of each precinct((:

~~(1) The precinct list of registered voters for that precinct and a suitable means to record the signature, name, and address of the voter;~~

~~(2) Ballots equal to the number of voters registered therein or such number as the county auditor or other officer in charge of such primary or election may certify to be necessary;~~

~~(3) A suitable ballot container (except when voting machines are in use), with lock and key, having an opening through the lid thereof of no larger size than sufficient to admit a single folded ballot or ballot card;~~

~~(4) Two cards of instructions to voters printed in English in large clear type containing full instruction to voters as to how:~~

~~(a) To obtain ballots for voting;~~

~~(b) To prepare the ballots for deposit in the ballot boxes;~~

~~(c) To obtain a new ballot in the place of one spoiled by accident or mistake;~~

~~(5) Sample ballots;~~

~~(6) Two oaths for each inspector and each judge;~~

~~(7) One United States flag;~~

~~(8) All)) or to one of the inspectors of a polling place where more than one precinct will be voting, all of the ballots, precinct lists of registered voters, and other supplies necessary for conducting the election or primary.~~

Sec. 37. Section 29.48.070, chapter 9, Laws of 1965 and RCW 29.48-.070 are each amended to read as follows:

Before opening the polls for a precinct, the voting equipment shall be inspected to determine if it has been properly prepared for voting. If the voting equipment is capable of direct tabulation of each voter's choices, the precinct election officers shall verify that no votes have been registered for any issue or office to be voted on at that primary or election. Any ballot box shall be carefully examined by the judges of election to determine that ((nothing may remain therein;)) it is empty. The ballot box shall then be

~~((locked and the key thereof delivered to one of the judges, to be designated by the auditor or other officer and))~~ sealed or locked. The ballot box shall not be opened ((during)) before the certification of the primary or election except in the manner and for the purposes ((otherwise)) provided ((by law)) under this title.

Sec. 38. Section 29.48.100, chapter 9, Laws of 1965 and RCW 29.48-.100 are each amended to read as follows:

The precinct election ~~((board))~~ officers, immediately before they ((commence receiving)) start to issue ballots or permit a voter to vote, shall ((cause it to be proclaimed aloud)) announce at the place of voting that the polls for that precinct are ((now)) open.

Sec. 39. Section 29.51.010, chapter 9, Laws of 1965 and RCW 29.51-.010 are each amended to read as follows:

No person ~~((other than voters engaged in receiving, preparing, or depositing their ballots or a person present for the purpose of challenging a voter about to receive his ballot shall be permitted within the rail.~~

~~In the case of small precincts where compartments are not required, no person engaged in preparing his ballot shall be interfered))~~ may interfere with a voter in any way ((except by some person authorized to assist him)) within the polling place. This does not prevent the voter from receiving assistance in preparing his or her ballot as provided in RCW 29.51.200.

Sec. 40. Section 29.51.050, chapter 9, Laws of 1965 and RCW 29.51-.050 are each amended to read as follows:

A voter desiring to vote shall give his or her name to ~~((one of))~~ the precinct election officer~~(s;)~~ who has the precinct list of registered voters. ~~This officer shall ((then in an audible tone announce it: A challenge may then be interposed. If no challenge is interposed or if it is overruled))~~ announce the name to the precinct election officer who has the copy of the poll book for that precinct. If the right of this voter to participate in the primary or election is not challenged, the voter shall be ((given)) issued a ballot or permitted to enter a voting ((machine)) booth ((as the case may be. If a ballot is given)) or to operate a voting device. The number ((thereof must)) of the ballot or the voter shall be ((called to the clerks of)) recorded by the precinct election officers. If the right of the voter to participate is challenged, RCW 29.10.125 and 29.10.127 apply to that voter.

Sec. 41. Section 29.51.060, chapter 9, Laws of 1965 as last amended by section 41, chapter 202, Laws of 1971 ex. sess. and RCW 29.51.060 are each amended to read as follows:

If any person appears ~~((and offers or demands the right))~~ to vote at any primary or election~~(:)~~ as a registered voter in the ~~((precinct))~~ jurisdiction where the primary or election is being held, the precinct election officers shall require ((him)) the voter to sign his or her name and current address subject to penalties of perjury in ((one of the official poll books or in

~~a space provided on)) one of the precinct lists of registered voters((, which shall be designated the county auditor's copy. PROVIDED, That)). If the person registered using a ((cross or)) mark((, and being identified by the signature of some other person)) or can no longer sign his or her name, the election officers ((must)) shall require the person offering to vote to be identified by ((the person who so signed, or by a)) another registered voter ((of the precinct. Unless the identifying witness is personally known to the election officers, or to some of them, they may require the identifying witness to sign his name in the presence of the election officers for the purpose of identification)).~~

As soon as it is determined that the person is qualified to vote, one of the precinct election officers shall ((copy)) enter the voter's name ((and address on the corresponding line)) in a second poll book ((or precinct list of registered voters which shall be identified as the inspector's copy)).

Sec. 42. Section 29.51.070, chapter 9, Laws of 1965 as amended by section 42, chapter 202, Laws of 1971 ex. sess. and RCW 29.51.070 are each amended to read as follows:

~~((At every primary and election whereat only registered voters may vote,))~~ As each voter casts his or her vote, ((and, where voting machines are used, before each voter enters the voting machine booth, each clerk)) the precinct election officers shall insert in ((his list of voters,)) the poll books or precinct list of registered voters opposite ((the)) that voter's name, ((the letter "V" and the number of his vote or ballot and the inspector or one of the judges shall enter on the voter's registration card or beside his name on the precinct list of registered voters, in the space provided for that purpose; the month, day and year of the primary or election (for example 11/4/30) or such other)) a notation ((as may be prescribed)) to credit the voter with having participated in ((the)) that primary or election.

Sec. 43. Section 29.51.100, chapter 9, Laws of 1965 as last amended by section 4, chapter 181, Laws of 1988 and RCW 29.51.100 are each amended to read as follows:

On ~~((receipt of his or her))~~ signing the precinct list of registered voters or being issued a ballot ((in an election the elector)), the voter shall ((forthwith and)), without leaving the polling place ((retire alone)), proceed to one of the ((places,)) voting booths((, or apartments provided to prepare)) or voting devices to cast his or her ((ballot. Each elector shall prepare his or her ballot by marking a cross "X" after the name of every person or candidate for whom he or she wishes to vote.

In case of a ballot containing a constitutional amendment or other question to be submitted to the vote of the people the voter shall mark a cross "X" after the question, for or against the amendment or proposition, as the case may be. Any elector may write in the blank spaces the name of any person for an office who has filed as a write-in candidate for the office in the manner provided by RCW 29.04.180 for whom he or she may wish to

~~vote. Write in votes cast for any other candidate must designate the office sought and the position number or political party, if applicable.~~

~~Before leaving the booth or compartment the elector shall fold the ballot in such a manner that the number of the ballot shall appear on the outside thereof, without displaying the marks on the face thereof, and)) vote. If the voter was issued a ballot, he or she shall remove the number from the ballot, place the ballot in the ballot box, and return the number to the precinct election officers or shall deliver it to the ((inspector of)) precinct election officers who shall remove the number from the ballot and place the ballot in the ballot box.~~

Sec. 44. Section 29.51.140, chapter 9, Laws of 1965 and RCW 29.51.140 are each amended to read as follows:

~~((Whenever)) In primaries or elections where a voter ((enters the booth who)) has the right to vote only on certain offices and measures, ((an)) a precinct election officer shall ((adjust)) set the ((machine)) mechanical voting device so that ((he)) the voter can only vote on ((such)) those offices and measures ((and no others)) or direct the voter to a voting device where the ballot contains the appropriate offices and measures.~~

Sec. 45. Section 29.51.150, chapter 9, Laws of 1965 and RCW 29.51.150 are each amended to read as follows:

~~The precinct election officers shall ((occasionally)) periodically examine the ((face of the machine and the ballot labels)) voting devices to determine ((whether)) if they have been ((injured or)) tampered with.~~

Sec. 46. Section 16, chapter 101, Laws of 1965 ex. sess. and RCW 29.51.175 are each amended to read as follows:

~~Votes cast by stickers or printed labels are not valid for any purpose and shall be rejected((:PROVIDED, That such action)). Votes cast by sticker or label shall not ((jeopardize the remaining portion of)) affect the validity of other offices or issues on the voter's ballot.~~

Sec. 47. Section 29.51.180, chapter 9, Laws of 1965 and RCW 29.51.180 are each amended to read as follows:

~~Any voter may take any printed or written ((memorandum or paper)) material to assist ((him in marking or preparing his ballot)) in casting his or her vote. The voter shall not use this material to electioneer and shall remove the material when he or she leaves the polls.~~

Sec. 48. Section 29.51.190, chapter 9, Laws of 1965 and RCW 29.51.190 are each amended to read as follows:

~~No ballots ((shall)) may be ((cast)) used in any polling place other than those ((printed)) prepared by the ((respective)) county auditor((s or other authorized election officials as provided by law, and)). No voter ((shall be)) is entitled~~

to vote more than ~~((one ballot. PROVIDED))~~ once at a primary or a general or special election, except that if a voter ((spoils)) incorrectly marks a ballot, he ((shaft)) or she may return it and ((get)) be issued a new ballot(;;). The precinct election officers shall ((immediately destroy the spoiled ballots returned)) void the incorrectly marked ballot and return it to the county auditor.

NEW SECTION. Sec. 49. A new section is added to chapter 29.51 RCW to read as follows:

Deliberately impeding other voters from casting their votes by refusing to leave a voting booth or voting device is a misdemeanor and is subject to the penalties provided in chapter 9A.20 RCW. The precinct election officers may provide assistance in the manner provided by RCW 29.51.200 to any voter who requests it.

Sec. 50. Section 29.51.240, chapter 9, Laws of 1965 and RCW 29.51.240 are each amended to read as follows:

~~((No adjournment or intermission whatever shall take place until))~~ The polls ((are closed and)) for a precinct shall remain open continuously until ((all the votes cast at the polls have been counted and the result publicly announced)) the time specified under RCW 29.13.080. At that time, the precinct election officers shall announce that the polls for that precinct are closed.

Sec. 51. Section 29.51.250, chapter 9, Laws of 1965 and RCW 29.51.250 are each amended to read as follows:

If at the ~~((hour))~~ time of closing the polls, there are any voters in the polling place who have not voted, ~~((the polls must be kept open after the hour for closing to enable them to do so, but this shall not include any voter who was not present at the exact time of closing))~~ they shall be allowed to vote after the polls have been closed.

Sec. 52. Section 29.54.010, chapter 9, Laws of 1965 as last amended by section 84, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.010 are each amended to read as follows:

~~At ((paper ballot precincts and at ballot card precincts served by a single set of precinct election officers, the inspector and judges of election for)) each ((election)) precinct immediately ((upon the closing of the polls, and before the ballots are counted))~~ after the last qualified voter has cast his or her vote, the precinct election officers shall ((destroy)) identify and seal all unused ballots ((or ballot cards furnished)) for ((use at such)) that precinct and seal them in a container to be returned to the county auditor.

~~((At paper ballot precincts and at ballot card precincts served by two sets of precinct election officers, the members of the receiving board shall destroy all unused ballots or ballot cards upon the closing of the polls.))~~

NEW SECTION. Sec. 53. A new section is added to chapter 29.54 RCW to read as follows:

Immediately after the close of the polls and the completion of voting, the precinct election officers shall count the number of voted ballots and make a record of any discrepancy between this number and the number of voters who signed the poll book for that precinct or polling place, complete the certifications in the poll book, prepare the ballots for transfer to the counting center if necessary, and seal the voting devices.

NEW SECTION. Sec. 54. A new section is added to chapter 29.54 RCW to read as follows:

(1) Paper ballots may be tabulated at the precinct polling place before the closing of the polls under rules adopted by the secretary of state. The tabulation of ballots, paper or otherwise, shall be open to the public, but no persons except those employed and authorized by the county auditor may touch a ballot card or ballot container or operate vote tallying equipment.

(2) The results of the tabulation of paper ballots at the polls shall be delivered to the county auditor as soon as the tabulation is complete.

Sec. 55. Section 29.54.035, chapter 9, Laws of 1965 as amended by section 85, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.035 are each amended to read as follows:

(1) In precincts using paper ballots ((precincts, no election officer or any other)) and in counting centers, no person authorized by law to be present while votes are being counted((, shall)) may divulge ((the)) any results of the count of the ballots at any time prior to the closing of the polls for that primary or election.

(2) A violation of this section is a misdemeanor punishable((, upon conviction, by a fine of not less than one hundred dollars nor more than five hundred dollars or imprisonment in the county jail not less than three nor more than six months, or by both such fine and imprisonment)) under chapter 9A.20 RCW.

Sec. 56. Section 29.54.050, chapter 9, Laws of 1965 as last amended by section 88, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.050 are each amended to read as follows:

((Ballots and)) A ballot ((cards must be rejected)) is invalid and no votes on that ballot may be counted if((:(1) Two are)) it is found folded together with another ballot; ((2)) or, except for an absentee ballot, it is marked so as to identify ((who)) the voter ((is PROVIDED, That this subsection (2) shall not apply to absentee ballots; (3) Printed other than by the respective county auditors or other authorized election officials as provided by law)).

Those parts of a ballot((s and ballot cards must not)) are invalid and no votes may be counted ((which: (1) Designate more persons for an office than are to be elected to that office; (2) Are not in compliance with)) for those issues or offices where more votes are cast for the office or issue than are permitted by law; write-in votes do not contain all of the information

required under RCW 29.51.170; ~~((3) Are)~~ or that issue or office is not marked with sufficient definiteness to determine the voter's choice or intention(~~(-PROVIDED, That no ballot or ballot card or part thereof shall)~~); No write-in vote may be rejected ~~((for want of))~~ due to a variation in the form ~~((or mistake in initials))~~ of the name~~((s))~~ if the election board or the canvassing board can determine ~~((to their satisfaction))~~ the issue for or against which or the person ~~((voted))~~ and the office for ~~((and))~~ which the ~~((office))~~ voter intended to vote.

Sec. 57. Section 29.54.060, chapter 9, Laws of 1965 as amended by section 89, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.060 are each amended to read as follows:

Whenever the precinct election officers or the counting center personnel have a question ~~((arises in the precinct election board or the counting center as to))~~ about the ~~((legality))~~ validity of a ballot or ~~((ballot card or any part thereof, the action thereon together with))~~ the votes for an office or issue that they are unable to resolve, they shall prepare and sign a concise ~~((statement))~~ record of the facts ~~((that gave rise to the objection must be indorsed upon the ballot or attached to the ballot card and signed by a majority of the board or the counting center personnel processing the ballot. All such))~~ in question or dispute. These ballots ~~((and statements))~~ shall be ~~((forwarded))~~ delivered to the canvassing board for processing. All ballots ~~((and ballot cards must))~~ shall be preserved ~~((whether rejected or counted in whole or in part and returned))~~ in the same manner as ~~((other))~~ valid ballots ~~((and ballot cards))~~ for that primary or election.

NEW SECTION. Sec. 58. A new section is added to chapter 29.54 RCW to read as follows:

Except as provided by rule under section 7 of this act, on the day of the primary or election, the tabulation of ballots at the polling place or at the counting center shall proceed without interruption or adjournment until all of the ballots cast at the polls at that primary or election have been tabulated.

NEW SECTION. Sec. 59. A new section is added to chapter 29.54 RCW to read as follows:

Immediately after their tabulation, all ballots shall be sealed in containers that identify the primary or election and be retained for at least sixty days. The containers may only be opened by the canvassing board as part of the canvass or to conduct recounts or by order of the superior court in a contest or election dispute. If the canvassing board opens a ballot container, it shall make a full record of the additional tabulation or examination made of the ballots. This record shall be added to any other record of the canvassing process in that county.

NEW SECTION. Sec. 60. A new section is added to chapter 29.54 RCW to read as follows:

The county auditor shall produce cumulative and precinct returns for each primary and election and deliver them to the canvassing board for verification and certification. The precinct and cumulative returns of any primary or election are public records under chapter 42.17 RCW.

Sec. 61. Section 94, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.170 are each amended to read as follows:

In counties using voting ~~((devices))~~ systems, the county auditor ~~((or other election officer))~~ shall maintain ~~((, for at least sixty days following each primary or election;))~~ the following ~~((descriptive))~~ documents ~~((relating to the conduct of that))~~ for at least sixty days after the primary or election:

(1) Sample ballot ((page)) formats together with a record of the format or formats assigned to each precinct;

(2) ~~((Program cards, precinct header cards, office and report files, program listings, and any similar))~~ All programming material related to the control of the vote tallying system for that primary or election; and

(3) All test materials used to verify the accuracy of the tabulating equipment as required by RCW 29.34.163.

Sec. 62. Section 29.62.010, chapter 9, Laws of 1965 and RCW 29.62.010 are each amended to read as follows:

Every ~~((official body))~~ canvassing board or officer ~~((upon whom is imposed the duty of))~~ responsible for canvassing and certifying the returns of any primary or election shall:

(1) Adopt administrative rules to facilitate and govern the canvassing process in that jurisdiction;

(2) For each primary and election, prepare and ((certify)) sign a statement ((separately setting forth)) of the returns for each office ~~((the returns as to which it or he is required by law to canvass, and the vote each)),~~ candidate ~~((received therefor;~~

~~((2) If required to canvass returns from a primary, prepare and certify a statement separately setting forth each office the returns as to which it or he is required by law to canvass, and the member of each political party participating therein who received the highest number of votes for each office: PROVIDED, That if there is more than one position to be filled for the same office the number of candidates of each political party participating therein equaling the number of positions to be filled who received the highest number of votes shall be listed as the nominees)),~~ and issue voted on in that jurisdiction;

(3) If, at a partisan primary, two or more candidates of the same party ~~((are tied))~~ receive the greatest, and identical, number of votes for ~~((the same))~~ an office, ((determine)) resolve the tie ((then and there)) vote by lot;

(4) If, at a nonpartisan or judicial primary, two or more candidates ~~((have received an equal))~~ receive the second greatest, and identical, number of votes ~~((and such number is barely sufficient for nomination, but as a~~

consequence, the number of persons so nominated exceeds twice the number of positions to be filled, determine)) for that office or position, resolve the tie ((then and there)) vote by lot ((so as to reduce the field of candidates to the proper number:

~~(5) After each election, prepare and certify a statement separately setting forth each office the returns as to which it or he is required by law to canvass, and the person who received the highest number of votes for each office. PROVIDED, That if there is more than one position to be filled for the same office, the number of persons equaling the number of positions to be filled who receive the highest number of votes shall be listed as having been elected)).~~

Sec. 63. Section 29.62.040, chapter 9, Laws of 1965 and RCW 29.62-.040 are each amended to read as follows:

~~((The county canvassing board at any meeting for)) Before canvassing the returns of a primary or election ((shall proceed as follows:~~

~~(1)),~~ the chairman of the ((board of)) county ((commissioners)) legislative authority shall administer ((the following)) an oath to the county auditor((:

"I do solemnly swear that the primary (or election) returns of the several precincts included in the primary (or election) last held in (here name the county or any other governmental unit not larger than a county if the election was held for it) have been in no wise altered by additions or erasures and that they are the same as when they were deposited in my office, so help me God.") attesting to the authenticity of the information presented to the canvassing board. This oath((, the signature and certificate)) must be ((in writing)) signed by the county auditor and filed with the ((papers pertaining to)) returns of the primary or election((;);

~~((2))~~ The county ((auditor with the assistance of the other members of the)) canvassing board shall proceed to ((count the vote of)) verify the results from the precincts((, precinct by precinct;

~~(3) Neither the tally books and sheets, the poll lists nor the certificate returned for any primary or election from any precinct shall be rejected for want of form or substance if it can be satisfactorily understood;~~

~~(4) File)) and the absentee ballots. The board shall execute a certificate of ((their canvass)) the results of the primary or election signed by all ((the)) members ((with the county auditor;~~

~~(5) If there is a vacancy in the county canvassing board, the remaining members of the board shall choose one of the other county officers to act during the canvass;~~

~~(6)) of the board. Failure to ((return the total votes counted)) certify the returns, if they can be ascertained with reasonable certainty ((shall be)), is a misdemeanor.~~

Sec. 64. Section 29.62.050, chapter 9, Laws of 1965 and RCW 29.62-.050 are each amended to read as follows:

Whenever the canvassing board (~~((authorized to canvass the returns))~~) finds (~~((, in its discretion,))~~) that there is an apparent discrepancy or an inconsistency in the (~~((primary or election))~~) returns (~~((such))~~) of a primary or election, the board may (~~((order that))~~) re-canvass (~~((of))~~) the ballots or voting (~~((machines be made of all, or of))~~) devices in any (~~((number less than all, of the))~~) precincts of the county (~~((, and said re-canvass may, in the discretion of said board, be made as to all, or as to any number less than all, of the candidates or measures voted upon. In conducting such re-canvass said board, or any duly authorized representative or employee of the board, may open the counter compartment of any voting machine without unlocking the machine against voting and recheck the vote cast thereon. If in the course of such re-canvass the board determines that there is an error in the return of any precinct said board shall summon the inspector and judges of the precinct and the inspector and judges shall correct such error by making notation thereof in the poll book and shall initial such notation. PROVIDED, That in the event that the election officials do not appear, or fail or refuse to make the correction as indicated,))~~). The canvassing board shall correct (~~((such))~~) any error (~~((in the poll book and initial such correction))~~) and document the correction of any error that it finds.

Sec. 65. Section 29.64.030, chapter 9, Laws of 1965 and RCW 29.64-030 are each amended to read as follows:

At the time and place (~~((fixed))~~) established for (~~((making))~~) a recount (~~((of paper ballots))~~), the canvassing board or (~~((their))~~) its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the sealed containers containing the ballots to be recounted, and shall recount (~~((them))~~) the votes for the offices or issues for which the recount has been ordered. Ballots shall be handled only by the members of the canvassing board (~~((;))~~) or their duly authorized representatives (~~((or by the clerk or other employees of the board))~~). Witnesses shall be permitted to (~~((see))~~) observe the ballots and the process of tabulating the votes, but they shall not be permitted to (~~((touch them, and))~~) handle the ballots. The canvassing board shall not permit the (~~((counting or))~~) tabulation of votes (~~((shown on the ballots))~~) for any nomination, (~~((or for))~~) election (~~((to any office or position))~~), or (~~((upon any question or proposition,))~~) issue other than the (~~((votes shown on such ballots))~~) ones for (~~((the nomination, election, or question or proposition concerning))~~) which a recount (~~((of ballots))~~) was (~~((applied for))~~) ordered.

At the time and place (~~((fixed))~~) established for (~~((making a recheck))~~) a re-canvass of the votes cast on voting (~~((machines))~~) devices that do not provide an individual record of the choices of each voter, the canvassing board or (~~((their))~~) its duly authorized representatives, in the presence of all witnesses who may be in attendance, shall open the voting (~~((machines))~~) devices

to be rechecked, and shall ~~((recheck them))~~ verify the votes cast for the offices and issues for which the recount was ordered. Witnesses shall be permitted to watch the recheck of the voting ~~((machines, and))~~ devices. The canvassing board shall not permit the rechecking of votes for any nomination, ~~((or for))~~ election ~~((to any office or position)),~~ or ~~((upon any question or proposition;))~~ issue other than the ~~((votes shown on such voting machines for the nomination, election, or question or proposition concerning))~~ ones for which a recount ((of voting machines)) was ((applied for)) ordered.

At any time before the ballots from all of the precincts listed in the application for the recount have been recounted, the applicant may file with the board a written request to stop the recount ~~((and not recount the ballots from the precincts so listed and which have not been recounted prior to the time of such request. PROVIDED, That this provision shall not apply to a recount when a recount is being made of any regular or special district election wheremat the precincts were consolidated and as a result thereof the application for a recount embraced all ballots cast at such election)).~~

If ~~((, upon such request;))~~ the canvassing board finds that the results of the votes in the precincts recounted, if substituted for the results of the votes in ~~((such))~~ those precincts as shown in the certified abstract of the votes ((in such precincts;)) would not ~~((cause the applicant, if a person for whom votes were cast for nomination or election, to be declared nominated or elected or if an election upon a question or proposition would not cause a result contrary to))~~ change the result ((thereof as declared prior to such recount)) for that office or issue, it shall ((grant such request and shall)) not recount the ballots of the precincts listed in the application for recount which have not been recounted ((prior to such time. If the board finds otherwise, it may deny such request and shall continue to recount ballots until the ballots from all of the precincts listed in the application for recount have been recounted. PROVIDED, That if such request is denied it may be renewed from time to time. Upon any such renewal the board shall consider and act upon the request in the same manner as provided in this section in connection with an original request.)) before the request to stop the recount. The canvassing board shall attach a copy of the request to stop the recount to the partial returns of the recount.

The recount may be observed by persons representing the candidates affected by the recount or the persons representing both sides of an issue that is being recounted. The observers may not make a record of the names, addresses, or other information on the ballots, poll books, or applications for absentee ballots unless authorized by the superior court. The secretary of state or county auditor may limit the number of observers to not less than two on each side if, in his or her opinion, a greater number would cause undue delay or disruption of the recount process.

Sec. 66. Section 29.64.040, chapter 9, Laws of 1965 and RCW 29.64-.040 are each amended to read as follows:

Upon completion of ~~((the))~~ a recount ~~((of the ballots, or upon stopping the recount prior to such time)),~~ the canvassing board shall ~~((promptly))~~ prepare and certify an amended abstract showing the votes cast in each precinct ~~((in))~~ for which the ~~((nomination, election, or question or proposition was submitted to the electors, which amended abstract shall embody the votes of the precincts, the ballots of which were recounted, as shown by such))~~ recount was conducted. Copies of ~~((such certified))~~ the amended abstracts shall be ~~((mailed to such other boards or election officials as required in the case of the original abstract which such amended))~~ transmitted to the same officers who received the abstract ~~((amends))~~ on which the recount was based.

If the nomination, election, or ~~((question or proposition concerning))~~ issue for which ~~((such))~~ the recount was ~~((made))~~ conducted was submitted only to the ~~((electors within))~~ voters of a county, the canvassing board shall ~~((make an))~~ file the amended ~~((declaration of the result of such election in the same manner required in the making of its))~~ abstract with the original ~~((declaration of the))~~ results of ~~((such))~~ that election or primary.

If the nomination, election, or ~~((question or proposition concerning))~~ issue for which a recount was ~~((made))~~ conducted was submitted to the ~~((electors))~~ voters of more than one county, the secretary of state shall canvass ~~((all))~~ the amended abstracts ~~((received from the canvassing board of each county in which a recount was made,))~~ and shall ~~((make))~~ file an amended ~~((declaration of the results of such election in the same manner required in the making of his))~~ abstract with the original ~~((declaration of the))~~ results of ~~((such))~~ that election. An amended abstract certified under this section supersedes any prior abstract of the results for the same offices or issues at the same primary or election.

Sec. 67. Section 29.64.050, chapter 9, Laws of 1965 and RCW 29.64-.050 are each amended to read as follows:

~~((If))~~ When a person was declared nominated ~~((as a candidate))~~ for ~~((election to an office))~~ or elected to an office or position and ~~((if))~~ it subsequently appears ~~((by the amended declaration of the results of such election made))~~ following a recount of votes ~~((cast in such election))~~ that ~~((such))~~ this person was not ~~((so))~~ nominated or elected, ~~((such person))~~ he or she may, within three days after the ~~((date of such amended declaration))~~ certification of the results of ~~((such election))~~ the recount, file ~~((an application))~~ a request with the appropriate canvassing board or official for a recount of the votes cast ~~((at such primary or election for such))~~ for that nomination or election in any precinct~~((;))~~ for which the ballots ~~((of which))~~ have not been recounted.

If, following a recount of votes cast at an election~~((, regular or special; upon any question or proposition, the amended declaration of the))~~ on an issue, the certified results of ~~((such election shows the result of such election to be))~~ the recount are contrary to the result ~~((thereof as declared))~~ on that

issue in the original ~~((declaration of the))~~ results ~~((thereof))~~ of that election, any group of five or more registered voters ~~((which has filed a statement with the board as provided in RCW 29.64.020))~~ may, within three days after the ~~((date of the amended declaration))~~ certification of the results of the recount, file ~~((an application))~~ a request with the appropriate board or official for a recount of the votes cast ~~((at such election upon such question or proposition in any precinct, the votes of which))~~ upon that issue that have not been recounted.

RCW 29.64.010, 29.64.020, and 29.64.030 are applicable to any ~~((application provided for in this section and to the))~~ request and recount ~~((had pursuant thereto))~~ under this section.

Sec. 68. Section 29.64.060, chapter 9, Laws of 1965 as amended by section 100, chapter 361, Laws of 1977 ex. sess. and RCW 29.64.060 are each amended to read as follows:

The ~~((charges))~~ expenses for ~~((making))~~ conducting a recount of votes ~~((of precincts listed in an application for recount filed with the board of elections))~~ shall be fixed by the canvassing board ~~((and shall include all expenses incurred by such board because of such application other than the regular operating expenses which the board would have incurred if the application had not been filed.~~

The total amount of charges so fixed divided by the number of precincts listed in such application, the votes of which were recounted, shall be the charge per precinct for the recount of the votes of the precincts listed in such application, the votes of which were recounted. PROVIDED, That the charges per precinct so fixed shall not be more than the actual cost).

~~((Such charge))~~ The cost of the recount shall be deducted ~~((by the board))~~ from the ~~((money))~~ amount deposited ~~((with the board))~~ by the applicant for the recount at the time of filing ~~((his application))~~ the request for the recount, and the balance ~~((of the money so deposited))~~ shall be returned to ~~((such))~~ the applicant ~~((unless)).~~ If the costs of the recount ~~((were higher than))~~ exceed the deposit, ~~((in which case))~~ the applicant shall ~~((be required to))~~ pay the difference ~~((PROVIDED, That no such charges shall)).~~ No charges may be deducted by the canvassing board from the ~~((money deposited))~~ deposit for a recount ~~((of votes cast for a nomination or for an election to an office or position in any precinct, if upon the completion of a recount the applicant is declared nominated or elected, or if upon completion of a recount concerning a question or proposition;))~~ if the recount changes the result of ~~((such))~~ the nomination or election ~~((is declared to be opposite to the original declaration of the result of such election. All moneys deposited with the board by an applicant not returned to him shall be paid by such board into the general fund of the political subdivision concerned))~~ for which the recount was ordered.

Sec. 69. Section 29.71.020, chapter 9, Laws of 1965 as amended by section 1, chapter 238, Laws of 1977 ex. sess. and RCW 29.71.020 are each amended to read as follows:

In the year((s)) in which a presidential election~~((s are))~~ is held, each major political party ~~((nominating))~~ and each minor political party or independent candidate convention held under chapter 29.24 RCW that nominates candidates for president and vice-president of the United States shall nominate ~~((their))~~ presidential electors for this state ~~((and))~~. The party or convention shall file with the secretary of state a certificate~~((s of nomination for such candidates at the time and in the manner and number provided by law. Each political party shall require from each candidate for))~~ signed by the presiding officer of the convention at which the presidential electors were chosen, listing the names and addresses of the presidential electors. Each presidential elector shall execute and file with the secretary of state a pledge that, as an elector, he or she will vote for the candidates nominated by that party. ~~((The secretary of state shall certify to the county auditors the names of the candidates for president and vice president of the several political parties, which shall be printed on the ballot.))~~ The names of ~~((candidates for))~~ presidential electors ~~((of president and vice president))~~ shall not ~~((be printed upon))~~ appear on the ballots. The votes cast for candidates for president and vice-president of each political party shall be counted for the candidates for presidential electors of ~~((such))~~ that political party~~((, whose names have been filed with the secretary of state)).~~

Sec. 70. Section 29.74.080, chapter 9, Laws of 1965 and RCW 29.74.080 are each amended to read as follows:

The ~~((ballot))~~ issue shall be ~~((headed))~~ identified as, "Delegates to a convention for ratification or rejection of a proposed amendment to the United States Constitution, relating (stating briefly the substance of amendment proposed for adoption or rejection)." The names of all candidates who have filed ~~((for))~~ in a district shall be printed on the ballots for that district in two separate groups~~((In one group))~~ under the headings, "For the amendment" ~~((shall be printed in alphabetical order of their surnames, the names of all candidates, who in their filed declaration of candidacy have declared themselves to be in favor of the amendment; and in the other group under the heading;))~~ and "Against the amendment." The names of the candidates in each group shall be printed in alphabetical order ~~((of their surnames, the names of all candidates, who in their filed declaration of candidacy have declared themselves to be against the amendment. The wording of the headings for the two groups may be varied from that prescribed above if the nature of the proposal submitted by congress requires a different heading in order to clearly and briefly express the attitude of the candidates as disclosed in their declarations of candidacy. One of said groups shall occupy the left, and the other the right, column on said ballot. At the top of the ballot preceding the list of names shall be the~~

statement, "Vote for" then the word, "two" or a spelled number designating the number of delegates to which the district is entitled, and "To vote for a person, make a cross (X) in the square at the right of the name of each person for whom you desire to vote." In all other respects the ballots shall follow the form prescribed by general law)).

Sec. 71. Section 29.82.130, chapter 9, Laws of 1965 as amended by section 2, chapter 42, Laws of 1980 and RCW 29.82.130 are each amended to read as follows:

The special election ((to be called)) for the recall of an officer((s)) shall be conducted in the same manner as ((general, state, county, municipal, or other political subdivision elections, as the case may be, are conducted. The proper election officer shall provide for the holding of)) a special election for that jurisdiction. The county auditor shall conduct the recall election((s and the necessary places and officers, ballot boxes, ballots, poll books, voting machines, supplies, and returns as are required by law for holding general elections)). The ballots at any recall election shall contain a full, true, and correct copy of the ballot synopsis of the charge(;) and the officer's response to the charge if ((such)) one has been filed((, and shall be so arranged that any voter can, by making one cross (X) express his desire to have the officer charged recalled from his office, or retained therein. Substantially the following form shall be a compliance with the provisions of this section:

RECALL BALLOT

(Here insert the ballot _____ (Here insert the officer's synopsis of the charge.) _____ response to the charge.)

FOR the recall of (here insert the name of the officer)
AGAINST the recall (here insert the name of the officer)).

Sec. 72. Section 10, chapter 31, Laws of 1969 as last amended by section 36, chapter 3, Laws of 1983 and RCW 28A.57.435 are each amended to read as follows:

Within thirty days after March 25, 1969, the school boards of any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties shall establish the director district boundaries and obtain approval thereof by the county committee on school district organization. Appointment of a board member to fill any vacancy existing for a new director district prior to the next regular school election shall be by the school board. Prior to the next regular election in the school district and the filing of declarations of candidacy therefor, the incumbent school board shall designate said director districts by number. Directors appointed to fill vacancies as above provided shall be subject to election, one for a six-year term, and one for a two-year

term and thereafter the term of their respective successors shall be for four years. The term of office of incumbent members of the board of such district shall not be affected by RCW 28A.57.312, 28A.57.336, 28A.57.425, 28A.57.435, 28A.57.313, and 29.21.180(~~(, and 29.21.210, each as now or hereafter amended)~~).

***Sec. 73. Section 3, chapter 110, Laws of 1987 and RCW 29.21.075 are each amended to read as follows:**

The names of candidates for district court judge shall appear on primary and general election ballots in the following order:

(1) The names shall be rotated in each precinct in primaries in the manner specified by RCW 29.30.040(~~29.30.340, and 29.30.440~~). The order of the names on sample ballots and on absentee ballots in primaries shall be determined by lot as specified in RCW 29.18.022.

(2) On the general election ballot and on absentee and sample ballots for the general election, the name of the candidate who receives the greatest number of votes for the position at the primary shall be listed first followed by the name of the candidate who receives the next greatest number of votes.

***Sec. 73 was vetoed, see message at end of chapter.**

Sec. 74. Section 29.45.060, chapter 9, Laws of 1965 as last amended by section 3, chapter 102, Laws of 1973 and RCW 29.45.060 are each amended to read as follows:

The inspector and judges of election in each precinct shall conduct the elections therein and receive, deposit, and count the ballots cast thereat and make returns to the proper canvassing board or officer except that when two or more sets of precinct election officers are appointed as provided in RCW 29.45.050, the ballots shall be counted by the counting board or boards as provided in (~~(RCW 29.54.030, 29.54.043, and 29.54.045)~~) sections 53 and 54 of this 1990 act and RCW 29.54.035 as recodified by this 1990 act.

Sec. 75. Section 29.51.020, chapter 9, Laws of 1965 as last amended by section 1, chapter 35, Laws of 1984 and RCW 29.51.020 are each amended to read as follows:

(1) On the day of any primary, general or special election, no person may, within a polling place, or in any public area within three hundred feet of any entrance to such polling place:

- (a) Do any electioneering;**
- (b) Circulate cards or handbills of any kind;**
- (c) Solicit signatures to any kind of petition;**
- (d) Engage in any practice which interferes with the freedom of voters to exercise their franchise or disrupts the administration of the polling place; or**

(e) Conduct any exit poll or public opinion poll with voters.

(2) No person may obstruct the doors or entries to a building in which a polling place is located or prevent free access to and from any polling

place. Any sheriff, deputy sheriff, or municipal law enforcement officer shall prevent such obstruction, and may arrest any person creating such obstruction.

(3) No person may:

(a) Except as provided in RCW 29.34.157 as recodified by this 1990 act, remove any ballot from the polling place before the closing of the polls; or

(b) Solicit any voter to show his or her ballot.

(4) No person other than an inspector or judge of election may receive from any voter a voted ballot or deliver a blank ballot to such elector.

(5) Any violation of this section is a misdemeanor under RCW 9A.20.010, and shall be punished under RCW 9A.20.020(3), and the person convicted may be ordered to pay the costs of prosecution.

Sec. 76. Section 7, chapter 109, Laws of 1967 ex. sess. as amended by section 5, chapter 71, Laws of 1983 1st ex. sess. and RCW 29.36.130 are each amended to read as follows:

All mail ballots authorized by RCW 29.36.120 shall contain the same offices, names of candidates, and propositions to be voted upon, including precinct offices, as if the ballot had been voted in person at the polling place. Except as otherwise provided in RCW 29.36.120 and 29.36.122 through 29.36.126 and 29.36.139, such mail ballots shall be issued and canvassed in the same manner as absentee ballots issued pursuant to the request of the voter. The county canvassing board, at the request of the county auditor, may direct that mail ballots be counted on the day of the election. If such count is made, it must be done in secrecy in the presence of at least three election officials and the results not revealed to any unauthorized person until the polls have closed. If electronic vote tallying devices are used, political party observers shall be afforded the opportunity to be present, and a test of the equipment must be performed as required by RCW 29.34.163 prior to the count of ballots. Political party observers shall be allowed to count by hand ballots from up to ten precincts selected by the observers. Any violation of the secrecy of such count shall be subject to the same penalties as provided for in RCW 29.54.035 as recodified by this 1990 act.

NEW SECTION. Sec. 77. A new section is added to chapter 29.01 RCW to read as follows:

"Filing officer" means the county or state officer with whom declarations of candidacy for an office are required to be filed under this title.

Sec. 78. Section 29.18.010, chapter 9, Laws of 1965 and RCW 29.18.010 are each amended to read as follows:

~~((A))~~ Candidates for ~~((state, congressional, legislative, county, municipal, and precinct elective))~~ the following offices shall be nominated at ~~((a))~~ partisan ~~((primary election))~~ primaries held pursuant to the provisions

of this chapter: ~~((PROVIDED, That this chapter shall not apply to elections:~~

- ~~(1) To fill unexpired terms occasioned by vacancies;~~
- ~~(2) For nonpartisan elective offices;~~
- ~~(3) For presidential electors;~~
- ~~(4) In first class cities whose charters provide a nonpartisan method of nominating candidates;~~
- ~~(5) In fourth class cities or towns;~~
- ~~(6) In first, second and third class cities holding nonpartisan elections under RCW 29.21.010))~~

- (1) Congressional offices;
- (2) All state offices except (a) judicial offices and (b) the office of superintendent of public instruction;
- (3) All county offices except (a) judicial offices and (b) those offices where a county home rule charter provides otherwise.

Sec. 79. Section 1, chapter 52, Laws of 1965 and RCW 29.18.015 are each amended to read as follows:

Not less than ~~((ten))~~ thirty days before the ~~((time))~~ first day for filing declarations of candidacy under RCW 29.18.025 as recodified by this 1990 act for ~~((the office of state representative in representative districts embracing more than one county))~~ legislative, judicial, county, city, town, or district office, where more than one position with the same name, district number, or title will be voted upon at the succeeding election, the ~~((secretary of state))~~ filing officer shall ~~((in each case))~~ designate the positions to be filled by ~~((consecutive))~~ number ~~((commencing with the number, "No. 1". The county auditor shall do likewise for state representative positions in counties wherein the representative districts are confined to the whole or part of a single county)).~~

The ~~((state representative))~~ positions so designated shall be dealt with as separate offices for all election purposes. ~~((The provisions of this section shall not apply to those representative districts assigned a single state representative position))~~ With the exception of the office of justice of the supreme court, the position numbers shall be assigned, whenever possible, to reflect the position numbers that were used to designate the same positions at the last full-term election for those offices.

NEW SECTION. Sec. 80. A new section is added to chapter 29.30 RCW to read as follows:

After the close of business on the last day for candidates to file for office, the filing officer shall, from among those filings made in person and by mail, determine by lot the order in which the names of those candidates will appear on all sample and absentee ballots. In the case of candidates for city, town, and district office, this procedure shall also determine the order for candidate names on the official primary ballot used at the polling place. The determination shall be done publicly and may be witnessed by the media

and by any candidate. If no primary is required for any nonpartisan office under RCW 29.13.075 as recodified by this act or 29.21.015, the names shall appear on the general election ballot in the order determined by lot.

Sec. 81. Section 2, chapter 142, Laws of 1984 as amended by section 8, chapter 167, Laws of 1986 and RCW 29.18.025 are each amended to read as follows:

Except where otherwise provided by ~~((state law))~~ this title, declarations of candidacy for the following offices shall be filed during regular business hours with the ~~((secretary of state or the county auditor))~~ filing officer no earlier than the fourth Monday in July and no later than the following Friday in the year in which the office is scheduled to be voted upon:

(1) Offices that are scheduled to be voted upon for full terms or both full terms and short terms at, or in conjunction with, a state general election; and

(2) Offices where a vacancy, other than a short term, exists that has not been filled by election and for which an election to fill the vacancy is required in conjunction with the next state general election.

This section supersedes all other statutes that provide for a different filing period for these offices.

NEW SECTION. Sec. 82. A candidate who desires to have his or her name printed on the ballot for election to an office other than president of the United States, vice-president of the United States, or an office for which ownership of property is a prerequisite to voting shall complete and file a declaration and affidavit of candidacy. The secretary of state shall adopt, by rule, a declaration of candidacy form for the office of precinct committee officer and a separate standard form for candidates for all other offices filing under this chapter. Included on the standard form shall be:

(1) A place for the candidate to declare that he or she is a registered voter within the jurisdiction of the office for which he or she is filing, and the address at which he or she is registered;

(2) A place for the candidate to indicate the position for which he or she is filing;

(3) A place for the candidate to indicate a party designation, if applicable;

(4) A place for the candidate to indicate the amount of the filing fee accompanying the declaration of candidacy or for the candidate to indicate that he or she is filing a nominating petition in lieu of the filing fee under RCW 29.18.050 as recodified by this act;

(5) A place for the candidate to sign the declaration of candidacy, stating that the information provided on the form is true and swearing or affirming that he or she will support the Constitution and laws of the United States and the Constitution and laws of the state of Washington.

The secretary of state may require any other information on the form he or she deems appropriate to facilitate the filing process.

NEW SECTION. Sec. 83. When filing for office, a candidate may indicate the manner in which he or she desires his or her name to be printed on the ballot. For filing purposes, a candidate may use a nickname by which he or she is commonly known as his or her first name, but the last name shall be the name under which he or she is registered to vote.

No candidate may:

(1) Use a nickname that denotes present or past occupation, including military rank;

(2) Use a nickname that denotes the candidate's position on issues or political affiliation;

(3) Use a nickname designed intentionally to mislead voters.

The secretary of state shall adopt rules to resolve those instances when candidates have filed for the same office whose last names are so similar in sound or spelling as to be confusing to the voter.

Sec. 84. Section 29.18.040, chapter 9, Laws of 1965 as last amended by section 30, chapter 361, Laws of 1977 ex. sess. and RCW 29.18.040 are each amended to read as follows:

Declarations of candidacy shall be filed (~~as follows~~) with the following filing officers:

(1) The secretary of state for declarations of candidacy for state-wide offices, United States senate, and United States house of representatives(;~~and~~);

(2) The secretary of state for declarations of candidacy for the state legislature, the court of appeals, and the superior court when ((electors)) voters from a district comprising more than one county vote upon the candidates((, in the office of the secretary of state));

~~((2))~~ (3) The county auditor for all other offices((, when electors from only one county vote upon the candidates, in the office of the county auditor)). For any nonpartisan office, other than judicial offices, where voters from a district comprising more than one county vote upon the candidates, a declaration of candidacy shall be filed with the county auditor of the county in which a majority of the registered voters of the district reside.

Each official with whom declarations of candidacy are filed under this section, within one business day following the closing of the applicable filing period, shall forward to the public disclosure commission a copy of each declaration of candidacy filed in his office during such filing period or a list containing the name of each candidate who files such a declaration in his office during such filing period together with a precise identification of the position sought by each such candidate and the date on which each such declaration was filed. Such official, within three days following his receipt of any letter withdrawing a person's name as a candidate, shall also forward a copy of such withdrawal letter to the public disclosure commission.

Sec. 85. Section 29.18.050, chapter 9, Laws of 1965 as last amended by section 2, chapter 295, Laws of 1987 and RCW 29.18.050 are each amended to read as follows:

A filing fee of one dollar shall accompany each declaration of candidacy for precinct committee officer; a filing fee of ten dollars shall accompany the declaration of candidacy for any office with ~~((an))~~ a fixed annual salary of one thousand dollars or less; a filing fee equal to one percent of the annual salary of the office at the time of filing shall accompany the declaration of candidacy for any office with ~~((an))~~ a fixed annual salary of more than one thousand dollars per annum. No filing fee need accompany a declaration of candidacy for any office for which compensation is on a per diem or per meeting attended basis, nor for the filing of any declaration of candidacy by a write-in candidate.

A candidate who lacks sufficient assets or income at the time of filing to pay the filing fee required by this section shall submit with his or her declaration of candidacy a nominating petition. The petition shall contain not less than a number of signatures of registered voters equal to the number of dollars of the filing fee. The signatures shall be of voters registered to vote within the jurisdiction of the office for which the candidate is filing.

When the candidacy is for:

~~(1) ((A federal or state-wide office, the fee shall be paid to the secretary of state for deposit in the state treasury.~~

~~(2)))~~ A legislative or judicial office that includes territory from more than one county, the fee shall be paid to the secretary of state for equal division between the treasuries of the counties comprising the district.

~~((3) A county office or a legislative, judicial, or district office that includes territory from a single county, the fee shall be paid to the county auditor for deposit in the county treasury.~~

~~(4)))~~ (2) A city or town office, the fee shall be paid to the county auditor who shall transmit it to the city or town clerk for deposit in the city or town treasury.

Sec. 86. Section 7, chapter 142, Laws of 1984 and RCW 29.18.105 are each amended to read as follows:

A candidate may withdraw his or her declaration of candidacy at any time before the ~~((Friday))~~ close of business on the Thursday following the last day for candidates to file under RCW 29.18.025 as recodified by this 1990 act by filing, with the officer with whom the declaration of candidacy was filed, a ~~((written;))~~ signed request that his or her name not be printed on the ballot. There shall be no withdrawal period for declarations of candidacy filed during special filing periods held under ~~((RCW 29.18.032, 29.21.360, 29.21.370, or 29.68.080))~~ this title. The filing officer may permit the withdrawal of a filing for the office of precinct committee officer at the request of the candidate at any time if no absentee ballots have been issued for that office and the general election ballots for that precinct have not

been printed. No filing fee may be refunded to any candidate who withdraws under this section. Notice of the deadline for withdrawal of candidacy and that the filing fee is not refundable shall be given to each candidate at the time he or she files.

Sec. 87. Section 29.18.120, chapter 9, Laws of 1965 as amended by section 1, chapter 112, Laws of 1971 ex. sess. and RCW 29.18.120 are each amended to read as follows:

~~So far as applicable, the provisions ((in relation to the holding of elections, the solicitation of voters at the polls, the challenging of voters, the manner of conducting elections, of counting the ballots and making returns and canvass thereof, and all other kindred subjects shall apply to all primaries and the election officers shall have the same powers for primary elections as they have for))~~ of this title relating to conducting general elections shall govern the conduct of primaries.

Sec. 88. Section 29.18.200, chapter 9, Laws of 1965 and RCW 29.18.200 are each amended to read as follows:

Except as provided otherwise in chapter 29.19 RCW, all properly registered voters may vote for their choice at any primary ((election)) held under this title, for any candidate for each office, regardless of political affiliation and without a declaration of political faith or adherence on the part of the voter.

Sec. 89. Section 29.21.010, chapter 9, Laws of 1965 as last amended by section 3, chapter 53, Laws of 1977 and RCW 29.21.010 are each amended to read as follows:

~~All ((cities and towns shall hold primary elections irrespective of type or form of government which))~~ city and town primaries shall be nonpartisan ((and held as provided in RCW 29.13.070, as now or hereafter amended: Att)). Primaries for special purpose districts, except those districts ((which)) that require ownership of property within ((said)) the district((s)) as a prerequisite to voting, shall ((hold primary elections which shall)) be nonpartisan ((and)). City, town, and district primaries shall be held as provided in RCW 29.13.070 ((as now or hereafter amended:

~~All names of candidates to be voted upon at city, town, and such district primary elections shall be printed upon the official primary ballot alphabetically in groups under the designation of the respective titles of the offices for which they are candidates. The name of the person who receives the greatest number of votes and of the person who receives the next greatest number of votes for each position, shall appear in that order on the city, town, or district general election ballot concerned under the designation for each respective office. In the event there are two or more offices to be filled for the same position, then names of candidates receiving the highest number of votes equal in number to twice the offices to be filled shall appear on the city, town, or district general election ballot so that the voter shall have~~

a choice of two candidates for each position: ~~PROVIDED, That no name of any candidate shall appear on the city, town, or district general election ballot unless said candidate shall receive at least five percent of the total votes cast for that office. The sequence of names of candidates printed on the city, town, or district general election ballot shall be in relation to the number of votes each candidate received at the primary. Names of candidates printed upon the city, town, or district primary and general election ballot need not be rotated~~)).

The purpose of this section is to establish the holding of a primary ((election)), subject to the exemptions ((as contained)) in RCW 29.21.015 ((as now or hereafter amended)), as a uniform procedural requirement to the holding of city, town, and district elections ((and such)). These provisions ((shall)) supersede any and all other statutes, whether general or special in nature, having different election requirements.

Sec. 90. Section 29.21.015, chapter 9, Laws of 1965 as amended by section 2, chapter 120, Laws of 1975-'76 2nd ex. sess. and RCW 29.21.015 are each amended to read as follows:

No primary ((election shall)) may be held for any single position in any city, town, or district, as required by RCW 29.21.010, ((as now or hereafter amended,)) if, after the last day allowed for candidates to withdraw, there are no more than two candidates filed for the position ((to be filed: ~~PROVIDED, That whenever it shall be necessary to hold a primary election for any one such position because of the number of candidates remaining filed, no primary election shall be held for any other position for which no more than two candidates have remained as filed. Insofar as such positions not being subjected to a primary election are concerned~~)). The county auditor shall, as soon as possible, notify all the candidates so affected that the office for which they filed will not appear on the primary ballot. Names of candidates ((that would have been printed upon the primary ballot, but for the provisions of this section,)) so notified shall be printed upon the general election ballot ((alphabetically in groups under the designation of the respective titles of the offices for which they are candidates)) in the manner specified by section 80 of this 1990 act.

Sec. 91. Section 29.21.070, chapter 9, Laws of 1965 as last amended by section 193, chapter 202, Laws of 1987 and RCW 29.21.070 are each amended to read as follows:

The offices of superintendent of public instruction, justice of the supreme court, judge of the court of appeals, judge of the superior court, and judge of the district court shall be nonpartisan and the candidates therefor shall be nominated and elected as such. ((Not less than ten days before the time for filing declarations of candidacy, each county auditor shall designate how many district judges are to be elected in each district in the county.))

All city, town, and special purpose district elective offices shall be nonpartisan and the candidates therefor shall be nominated and elected as such.

Sec. 92. Section 29.21.140, chapter 9, Laws of 1965 as amended by section 4, chapter 120, Laws of 1975-'76 2nd ex. sess. and RCW 29.21.140 are each amended to read as follows:

If at the same election there are short terms or full terms and unexpired terms of office to be filled, the ~~((town or city clerk, the secretary of state, or the county auditor, as the case may be,))~~ filing officer shall distinguish them and designate the short term, the full term, and the unexpired term, as such, or by use of the words "short term⁽¹⁾," "unexpired two year term₂" or "four year term₂" as the case may be.

In filing ~~((his))~~ the declaration of candidacy in such cases the candidate shall specify that ~~((his))~~ the candidacy is for the short term, the full term₂ or the unexpired term ~~((as the case may be. PROVIDED, That))~~. When both a short term and a full term for the same position are scheduled to be voted upon, or when a short term is created after the close of the filing period, a single declaration of candidacy accompanied by a single filing fee shall be construed as a filing for both the short term and the full term and the name of such candidate shall appear upon the ballot for the position sought with the designation "short term and ~~((long))~~ full term⁽²⁾." The candidate elected to both such terms shall be sworn into and assume office for the short term as soon as the election returns have been certified and shall again be sworn into office on the second Monday in January following the election to assume office for the full term.

NEW SECTION. Sec. 93. A new section is added to chapter 29.30 RCW to read as follows:

Except for the candidates for the positions of president and vice-president or for a partisan or nonpartisan office for which no primary is required, the names of all candidates who have filed for nomination under chapter 29.18 RCW and those independent candidates and candidates of minor political parties who have been nominated under chapter 29.24 RCW shall appear on the appropriate ballot at the primary throughout the jurisdiction in which they are to be nominated.

Sec. 94. Section 29.30.040, chapter 9, Laws of 1965 as amended by section 54, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.040 are each amended to read as follows:

~~((In primary elections in precincts where votes are cast on paper ballots, unless otherwise required by law))~~ At primaries, the names of candidates for federal, state, and county partisan offices, for the office of superintendent of public instruction, and for judicial offices shall, for each office or position ~~((shall be first)),~~ be arranged initially in the order ~~((in which their declarations of candidacy were filed))~~ determined under section 80 of this 1990 act. Additional sets of ~~((official))~~ ballots shall be ~~((printed))~~ prepared in which the positions of the names of all candidates for each ~~((such))~~ office or position shall be changed as many times as there are candidates in the office or position in which there are the greatest number of

names. As nearly as possible an equal number of ballots shall be ~~((printed))~~ prepared after each change. In making the changes of position between each set of ballots, the candidates for each such office in the first position under the office heading shall be moved to the last position under that office heading, and each other name shall be moved up to the position immediately above its previous position under that office heading. ~~((After the required sets of ballots are printed, they shall be kept in separate piles, one pile for each change of position, and shall then be gathered by taking one from each pile, the intention being that every other ballot at the polls shall have the names of the candidates under such offices in a different position.))~~ The effect of this rotation of the order of the names shall be that the name of each candidate for an office or position shall appear first, second, and so forth for that office or position on the ballots of a nearly equal number of registered voters in that jurisdiction. In a precinct using voting devices, the names of the candidates for each office shall appear in only one sequence in that precinct. The names of candidates for city, town, and district office on the ballot at the primary shall not be rotated.

NEW SECTION. Sec. 95. A new section is added to chapter 29.30 RCW to read as follows:

(1) Except as provided under subsection (2) of this section, on the ballot at the general election for a nonpartisan office for which a primary was held, only the names of the candidate who received the greatest number of votes and the candidate who received the next greatest number of votes for that office shall appear under the title of that office, and the names shall appear in that order. If a primary was conducted, no candidate's name may be printed on the subsequent general election ballot unless he or she receives at least one percent of the total votes cast for that office at the preceding primary. On the ballot at the general election for any other nonpartisan office for which no primary was held, the names of the candidates shall be listed in the order determined under section 80 of this act.

(2) On the ballot at the general election for the office of justice of the supreme court, judge of the court of appeals, judge of the superior court, or state superintendent of public instruction, if a candidate in a contested primary receives a majority of all the votes cast for that office or position, only the name of that candidate may be printed under the title of the office for that position.

NEW SECTION. Sec. 96. A new section is added to chapter 29.30 RCW to read as follows:

The name of a candidate for a partisan office for which a primary was conducted shall not be printed on the ballot for that office at the subsequent general election unless the candidate receives a number of votes equal to at least one percent of the total number cast for all candidates for that position sought and a plurality of the votes cast for the candidates of his or her party for that office at the preceding primary.

NEW SECTION. Sec. 97. The secretary of state shall adopt rules consistent with the provisions of this chapter to facilitate its implementation. The secretary shall publish proposed rules implementing this section not later than December 15, 1991.

Sec. 98. Section 28A.57.314, chapter 223, Laws of 1969 ex. sess. and RCW 28A.57.314 are each amended to read as follows:

Candidates for the position of school director shall file their declarations of candidacy as provided in ~~((RCW 29.21.060, as it now exists or may hereafter be amended))~~ Title 29 RCW.

~~((Not less than ten days before the time of filing such declarations of candidacy, the officer charged with the conduct of the election shall designate by lot the positions to be filled by consecutive number, commencing with one.))~~ The positions ~~((so designated for))~~ of school directors in each district shall be dealt with as separate offices for all election purposes, and where more than one position is to be filled, each candidate shall file for one of the positions so designated: PROVIDED, That in school districts containing director districts, candidates shall file for such director districts.

Sec. 99. Section 9, chapter 131, Laws of 1969 as last amended by section 6, chapter 183, Laws of 1979 ex. sess. and RCW 28A.57.425 are each amended to read as follows:

Notwithstanding any other provision of law, any school district of the first class having within its boundaries a city with a population of four hundred thousand people or more in class AA counties shall be divided into seven director districts. The boundaries of such director districts shall be established by the members of the school board and approved by the county committee on school district organization, such boundaries to be established so that each such district shall comprise, as nearly as practicable, an equal portion of the population of the school district. Boundaries of such director districts shall be adjusted by the school board and approved by the county committee after each federal decennial census if population change shows the need thereof to comply with the equal population requirement above. No person shall be eligible for the position of school director in any such director district unless such person resides in the particular director district. Residents in the particular director district desiring to be a candidate for school director shall file their declarations of candidacy for such director district and for the position of director in that district and shall be voted upon, in ~~((the))~~ any primary ((election)) required to be held for the position under Title 29 RCW, by the registered voters of that particular director district ~~((PROVIDED, That if not more than one person files a declaration of candidacy for the position of school director in any director district, no primary election shall be held in that district, and such candidate's name alone shall appear on the ballot for the director district position at the general election. The name of the person who receives the greatest number of votes and the name of the person who receives the next greatest number of~~

~~votes at the primary for each director district position shall appear on the general election ballot under such position and)).~~ In the general election, each position shall be voted upon by all the registered voters in the school district. The order of the names of candidates shall appear on the primary and general election ballots as required for nonpartisan positions under Title 29 RCW. Except as provided in RCW 28A.57.435, as now or hereafter amended, every such director so elected in school districts divided into seven director districts shall serve for a term of four years as otherwise provided in RCW 28A.57.313.

Sec. 100. Section 1, chapter 181, Laws of 1988 and RCW 29.04.180 are each amended to read as follows:

Any person who desires to be a write-in candidate and have such votes counted at a primary or election may, if the jurisdiction of the office sought is entirely within one county, file a declaration of candidacy with the county auditor not later than the day before the primary or election. If the jurisdiction of the office sought encompasses more than one county the declaration of candidacy shall be filed with the secretary of state not later than the day before the primary or election. Votes cast for write-in candidates who have filed such declarations of candidacy and write-in votes for persons appointed by political parties pursuant to RCW 29.18.160 need only specify the name of the candidate in the appropriate location on the ballot in order to be counted. Write-in votes cast for any other candidate, in order to be counted, must designate the office sought and position number or political party, if applicable.

No person may file as a write-in candidate where:

(1) At a general election, the person attempting to file either filed as a write-in candidate for the same office at the preceding primary or the person's name appeared on the ballot for the same office at the preceding primary;

(2) The person attempting to file as a write-in candidate has already filed a valid write-in declaration for that primary or election, unless one or the other of the two filings is for the office of precinct committeeperson;

(3) The name of the person attempting to file already appears on the ballot as a candidate for another office, unless one of the two offices for which he or she is a candidate is precinct committeeperson.

The declaration of candidacy shall be similar to that required by ~~((RCW 29.18.030))~~ section 82 of this 1990 act. No write-in candidate filing under RCW 29.04.180 may be included in any voter's pamphlet produced under chapter 29.80 RCW unless that candidate qualifies to have his or her name printed on the general election ballot. The legislative authority of any jurisdiction producing a local voter's pamphlet under chapter 29.81A RCW may provide, by ordinance, for the inclusion of write-in candidates in such pamphlets.

Sec. 101. Section 29.13.025, chapter 9, Laws of 1965 as amended by section 13, chapter 126, Laws of 1979 ex. sess. and RCW 29.13.025 are each amended to read as follows:

For the purposes of RCW 29.13.020, 29.13.040, (~~29.21.060, 29.24.110, 29.27.040~~) and 29.27.080, "class A county" shall include counties of higher classification whenever such class or classes shall be established.

Sec. 102. Section 29.18.150, chapter 9, Laws of 1965 as amended by section 12, chapter 329, Laws of 1977 ex. sess. and RCW 29.18.150 are each amended to read as follows:

Should a place on the ticket of a major political party be vacant because no person has filed for nomination as the candidate of that major political party, after the last day allowed for candidates to withdraw as provided by RCW (~~29.18.030~~) 29.18.105 as recodified by this 1990 act, and if the vacancy is for a state or county office to be voted on solely by the electors of a single county, the county central committee of the major political party may select and certify a candidate to fill the vacancy; if the vacancy is for any other office the state central committee of the major political party may select and certify a candidate to fill the vacancy; the certificate must set forth the cause of the vacancy, the name of the person nominated, the office for which he is nominated and other pertinent information required in an ordinary certificate of nomination and be filed in the proper office no later than the first Friday after the last day allowed for candidates to withdraw, together with the candidate's fee applicable to that office and a declaration of candidacy.

Sec. 103. Section 29.24.070, chapter 9, Laws of 1965 as last amended by section 8, chapter 215, Laws of 1989 and RCW 29.24.070 are each amended to read as follows:

Not later than the Friday immediately preceding the first day for candidates to file, the secretary of state shall notify the county auditors of the names and designations of all minor party and independent candidates who have filed valid convention certificates and nominating petitions with that office. Except for the offices of president and vice-president, persons nominated under this chapter shall file declarations of candidacy as provided by (~~RCW 29.18.030~~) section 82 of this 1990 act and RCW 29.18.040. The name of a candidate nominated at a convention shall not be printed upon the primary ballot unless he pays the fee required by law to be paid by candidates for the same office to be nominated at a primary.

Sec. 104. Section 29.42.040, chapter 9, Laws of 1965 as last amended by section 3, chapter 133, Laws of 1987 and by section 13, chapter 295, Laws of 1987 and RCW 29.42.040 are each reenacted and amended to read as follows:

Any member of a major political party who is a registered voter in the precinct may upon payment of a fee of one dollar file his or her declaration

of candidacy as prescribed (~~by RCW 29.18.031~~) under section 82 of this 1990 act with the county auditor for the office of precinct committee officer of his or her party in that precinct. When elected the precinct committee officer shall serve so long as the committee officer remains an eligible voter in that precinct and until a successor has been elected at the next ensuing state general election in the even-numbered year.

Sec. 105. Section 29.68.080, chapter 9, Laws of 1965 as last amended by section 4, chapter 45, Laws of 1985 and RCW 29.68.080 are amended to read as follows:

(1) Whenever a vacancy occurs in the office of United States representative or United States senator from this state or any congressional district of this state, the governor shall order a special election to fill the vacancy.

(2) Within ten days of such vacancy occurring, he or she shall issue a writ of election fixing a date for the special vacancy election not less than ninety days after the issuance of the writ, fixing a date for the primary for nominating candidates for the special vacancy election not less than thirty days before the day fixed for holding the special vacancy election, fixing the dates for the special filing period, and designating the term or part of the term for which the vacancy exists. If the vacancy is in the office of United States representative, the writ of election shall specify the congressional district that is vacant.

(3) If the vacancy occurs less than six months before a state general election and before the second Friday following the close of the filing period for that general election, the special primary and special vacancy elections shall be held in concert with the state primary and state general election in that year.

(4) If the vacancy occurs on or after the first day for filing under RCW (~~29.18.030~~) 29.18.025 as recodified by this 1990 act and on or before the second Friday following the close of the filing period, a special filing period of three normal business days shall be fixed by the governor and notice thereof given to all media, including press, radio, and television within the area in which the vacancy election is to be held, to the end that, insofar as possible, all interested persons will be aware of such filing period. The last day of the filing period shall not be later than the third Tuesday before the primary at which candidates are to be nominated. The names of candidates who have filed valid declarations of candidacy during this three-day period shall appear on the approaching primary ballot.

(5) If the vacancy occurs later than the second Friday following the close of the filing period, a special primary and special vacancy election to fill the position shall be held after the next state general election but, in any event, no later than the ninetieth day following the November election.

(6) As used in this chapter, "county" means, in the case of a vacancy in the office of United States senator, any or all of the counties in the state and, in the case of a vacancy in the office of United States representative,

only those counties wholly or partly within the congressional district in which the vacancy has occurred.

Sec. 106. Section 35A.29.105, chapter 119, Laws of 1967 ex. sess. and RCW 35A.29.105 are each amended to read as follows:

Positions to be filled on the council of code cities operating under the mayor-council or council-manager plan of government shall be numbered consecutively and treated as separate offices for all election purposes as provided in RCW (~~(29-21-017)~~) 29.18.015 as recodified by this 1990 act.

Sec. 107. Section 35A.29.110, chapter 119, Laws of 1967 ex. sess. as last amended by section 21, chapter 167, Laws of 1986 and RCW 35A.29-.110 are each amended to read as follows:

A candidate for office in a code city shall file a declaration of candidacy substantially in the form (~~(set forth in RCW 29-18-030)~~) provided under section 82 of this 1990 act insofar as such form is applicable to nonpartisan offices. Declarations of candidacy for offices of code cities to be voted upon at any municipal general election shall be filed with the county auditor not earlier than the fourth Monday of July nor later than the next succeeding Friday in the year such general election is to be held. However, if the first election of all officers upon reorganization as a noncharter code city under a plan of government newly adopted in the manner provided in RCW 35A-.02.020, 35A.02.030, 35A.02.080, or 35A.06.030 is an election as provided in RCW 35A.02.050, such declarations of candidacy shall be filed with the county auditor not more than fifty nor less than forty-six days prior to the primary election provided for in RCW 35A.02.050. Any candidate may withdraw his declaration at any time before the Friday following the last day allowed for filing declarations of candidacy. Nominating petitions for charter commissioners and for any other office for which nominating petitions may be required shall be filed with the county auditor not more than sixty nor less than forty-six days prior to the date of the election, and may be withdrawn at any time, but not later than five days after the last day allowed for filing such petitions.

Sec. 108. Section 9, chapter 175, Laws of 1959 as amended by section 3, chapter 51, Laws of 1965 and RCW 53.12.035 are each amended to read as follows:

All candidates for district offices in port districts of class AA and class A counties shall file their declarations of candidacy with the county auditor of the county as set forth in Title 29 RCW ((29-21-060)), as now or hereafter amended and in the same manner as candidates for county offices. In port districts located in a class AA county the declaration may be for any numbered port commissioner position to be open in the next port district election. In port districts with five commissioners in existence on July 1, 1965, the respective numbered positions shall correspond to the numbers of

the county commissioner districts from which the three original commissioners in the port districts were elected, with the central district being numbered one, and with positions four and five being assigned to the original at large commissioner positions for which the first incumbents received, respectively, the greater and lesser number of votes cast.

In all port districts in a class AA county, with three port commissioners there shall be three positions denominated positions one, two and three, and declarations of candidacy shall be for a specific position. Where a proposition for an increased number of port commissioners is on the ballot under RCW 53.12.120 and RCW 53.12.130, the two additional positions shall be denominated positions four and five, and candidates for the positions thus proposed to be created shall file declarations of candidacy for a specific position.

Sec. 109. Section 4, chapter 1, Laws of 1931 as last amended by section 1, chapter 292, Laws of 1987 and RCW 54.12.010 are each amended to read as follows:

Within ten days after such election, the county canvassing board shall canvass the returns, and if at such election a majority of the voters voting upon such proposition shall vote in favor of the formation of such district, the canvassing board shall so declare in its canvass of the returns of such election, and such public utility district shall then be and become a municipal corporation of the state of Washington, and the name of such public utility district shall be Public Utility District No. of County. The powers of the public utility district shall be exercised through a commission consisting of three members in three commissioner districts, and five members in five commissioner districts. When the public utility district is coextensive with the limits of such county, then, at the first election of commissioners and until any change shall have been made in the boundaries of public utility district commissioner districts, one public utility district commissioner shall be chosen from each of the three county commissioner districts of the county in which the public utility district is located if the county is not operating under a "Home Rule" charter. When the public utility district comprises only a portion of the county, with boundaries established in accordance with chapter 54.08 RCW, or when the public utility district is located in a county operating under a "Home Rule" charter, three public utility district commissioner districts, numbered consecutively, having approximately equal population and boundaries, following ward and precinct lines, as far as practicable, shall be described in the petition for the formation of the public utility district, which shall be subject to appropriate change by the county legislative authority if and when they change the boundaries of the proposed public utility district, and one commissioner shall be elected from each of said public utility district commissioner districts. In all five commissioner districts an additional commissioner at large shall be chosen from each of the two at large districts. No person shall be

eligible to be elected to the office of public utility district commissioner for a particular district commissioner district unless he is a registered voter of the public utility district commissioner district or at large district from which he is elected.

Except as otherwise provided, the term of office of each public utility district commissioner other than the commissioners at large shall be six years, and the term of each commissioner at large shall be four years. Each term shall be computed in accordance with RCW 29.04.170 following the commissioner's election. One commissioner at large and one commissioner from a commissioner district shall be elected at each general election held in an even-numbered year for the term of four years and six years respectively. All candidates shall be voted upon by the entire public utility district.

When a public utility district is formed, three public utility district commissioners shall be elected at the same election at which the proposition is submitted to the voters as to whether such public utility district shall be formed. If the general election adopting the proposition to create the public utility district was held in an even-numbered year, the commissioner residing in commissioner district number one shall hold office for the term of six years; the commissioner residing in commissioner district number two shall hold office for the term of four years; and the commissioner residing in commissioner district number three shall hold office for the term of two years. If the general election adopting the proposition to create the public utility district was held in an odd-numbered year, the commissioner residing in commissioner district number one shall hold office for the term of five years, the commissioner in district two shall hold office for the term of three years, and the commissioner in district three shall hold office for the term of one year. The commissioners first to be elected as above provided shall hold office from the first day of the month following the commissioners' election and their respective terms of office shall be computed from the first day of January next following the election.

All public utility district commissioners shall hold office until their successors shall have been elected and have qualified and assume office in accordance with RCW 29.04.170. A filing for nomination for public utility district commissioner shall be accompanied by a petition signed by one hundred registered voters of the public utility district which shall be certified by the county auditor to contain the required number of registered voters, and shall otherwise be filed in accord with the requirements of Title 29 RCW ((29.21.060)). At the time of filing such nominating petition, the person so nominated shall execute and file a declaration of candidacy subject to the provisions of Title 29 RCW ((29.21.060)), as now or hereafter amended. The petition and each page of the petition shall state whether the nomination is for a commissioner from a particular commissioner district or for a commissioner at large and shall state the districts; otherwise it shall be

void. A vacancy in the office of public utility district commissioner shall occur by death, resignation, removal, conviction of a felony, nonattendance at meetings of the public utility district commission for a period of sixty days unless excused by the public utility district commission, by any statutory disqualification, or by any permanent disability preventing the proper discharge of his duty. In the event of a vacancy in said office, such vacancy shall be filled at the next general election held in an even-numbered year, the vacancy in the interim to be filled by appointment by the remaining commissioners. If more than one vacancy exists at the same time in a three commissioner district, or more than two in a five commissioner district, a special election shall be called by the county canvassing board upon the request of the remainder, or, that failing, by the county election board, such election to be held not more than forty days after the occurring of such vacancies.

A majority of the persons holding the office of public utility district commissioner at any time shall constitute a quorum of the commission for the transaction of business, and the concurrence of a majority of the persons holding such office at the time shall be necessary and shall be sufficient for the passage of any resolution, but no business shall be transacted, except in usual and ordinary course, unless there are in office at least a majority of the full number of commissioners fixed by law.

The boundaries of the public utility district commissioners' district may be changed only by the public utility district commission, and shall be examined every ten years to determine substantial equality of population, but said boundaries shall not be changed oftener than once in four years, and only when all members of the commission are present. Whenever territory is added to a public utility district under RCW 54.04.035, the boundaries of the public utility commissioners' districts shall be changed to include such additional territory. The proposed change of the boundaries of the public utility district commissioners' district must be made by resolution and after public hearing. Notice of the time of a public hearing thereon shall be published for two weeks prior thereto. Upon a referendum petition signed by ten percent of the qualified voters of the public utility district being filed with the county auditor, the county legislative authority shall submit such proposed change of boundaries to the voters of the public utility district for their approval or rejection. Such petition must be filed within ninety days after the adoption of resolution of the proposed action. The validity of said petition shall be governed by the provisions of chapter 54.08 RCW.

NEW SECTION. Sec. 110. (1) The following sections as amended by this act are recodified as follows:

(a) RCW 29.34.080, 29.34.085, 29.34.090, 29.34.143, 29.34.163, and 29.34.170 are each recodified in chapter 29.33 RCW;

(b) RCW 29.33.230, 29.34.153, 29.34.157, and 29.34.167 are each recodified in chapter 29.54 RCW; and

(c) RCW 29.54.035 is recodified in chapter 29.85 RCW.

(2) Sections 82, 83, and 97 of this act and RCW 29.13.075, 29.18.015, 29.18.025, 29.18.032, 29.18.040, 29.18.045, 29.18.050, 29.18.053, 29.18.055, 29.18.057, 29.18.070, 29.18.080, 29.18.105, 29.21.140, 29.21.350, 29.21.360, 29.21.370, 29.21.380, 29.21.385, 29.21.390, and 29.21.400 shall be recodified to constitute a new chapter in Title 29 RCW.

NEW SECTION. Sec. 111. The code reviser shall correct all references in the Revised Code of Washington to the sections of the code that are recodified by section 110 of this act.

NEW SECTION. Sec. 112. The following acts or parts of acts are each repealed:

(1) Section 29.18.020, chapter 9, Laws of 1965, section 10, chapter 329, Laws of 1977 ex. sess. and RCW 29.18.020;

(2) Section 1, chapter 120, Laws of 1986, section 1, chapter 110, Laws of 1987 and RCW 29.18.022;

(3) Section 29.18.030, chapter 9, Laws of 1965, section 1, chapter 103, Laws of 1965 ex. sess., section 3, chapter 142, Laws of 1984, section 1, chapter 133, Laws of 1987 and RCW 29.18.030;

(4) Section 2, chapter 133, Laws of 1987 and RCW 29.18.031;

(5) Section 29.18.035, chapter 9, Laws of 1965 and RCW 29.18.035;

(6) Section 29.18.060, chapter 9, Laws of 1965 and RCW 29.18.060;

(7) Section 29.18.090, chapter 9, Laws of 1965 and RCW 29.18.090;

(8) Section 29.18.100, chapter 9, Laws of 1965 and RCW 29.18.100;

(9) Section 29.18.110, chapter 9, Laws of 1965, section 5, chapter 127, Laws of 1974 ex. sess., section 11, chapter 329, Laws of 1977 ex. sess. and RCW 29.18.110;

(10) Section 29.21.017, chapter 9, Laws of 1965, section 5, chapter 213, Laws of 1981 and RCW 29.21.017;

(11) Section 29.21.020, chapter 9, Laws of 1965 and RCW 29.21.020;

(12) Section 29.21.040, chapter 9, Laws of 1965 and RCW 29.21.040;

(13) Section 29.21.060, chapter 9, Laws of 1965, section 2, chapter 103, Laws of 1965 ex. sess., section 56, chapter 283, Laws of 1969 ex. sess., section 3, chapter 120, Laws of 1975-'76 2nd ex. sess., section 31, chapter 361, Laws of 1977 ex. sess., section 9, chapter 167, Laws of 1986 and RCW 29.21.060;

(14) Section 3, chapter 110, Laws of 1987 and RCW 29.21.075;

(15) Section 29.21.080, chapter 9, Laws of 1965, section 87, chapter 176, Laws of 1969 ex. sess. and RCW 29.21.080;

(16) Section 29.21.085, chapter 9, Laws of 1965, section 88, chapter 176, Laws of 1969 ex. sess., section 44, chapter 3, Laws of 1983 and RCW 29.21.085;

(17) Section 29.21.090, chapter 9, Laws of 1965 and RCW 29.21.090;

(18) Section 29.21.110, chapter 9, Laws of 1965, section 1, chapter 19, Laws of 1970 ex. sess. and RCW 29.21.110;

- (19) Section 29.21.120, chapter 9, Laws of 1965, section 194, chapter 202, Laws of 1987 and RCW 29.21.120;
- (20) Section 29.21.130, chapter 9, Laws of 1965 and RCW 29.21.130;
- (21) Section 1, chapter 10, Laws of 1970 ex. sess., section 5, chapter 120, Laws of 1975-'76 2nd ex. sess. and RCW 29.21.150;
- (22) Section 29.21.160, chapter 9, Laws of 1965, section 6, chapter 120, Laws of 1975-'76 2nd ex. sess. and RCW 29.21.160;
- (23) Section 2, chapter 10, Laws of 1970 ex. sess., section 7, chapter 21, Laws of 1973 2nd ex. sess., section 8, chapter 183, Laws of 1979 ex. sess., and RCW 29.21.180;
- (24) Section 29.21.190, chapter 9, Laws of 1965 and RCW 29.21.190;
- (25) Section 29.21.200, chapter 9, Laws of 1965 and RCW 29.21.200;
- (26) Section 29.21.210, chapter 9, Laws of 1965, section 2, chapter 131, Laws of 1969, section 8, chapter 21, Laws of 1973 2nd ex. sess., section 9, chapter 183, Laws of 1979 ex. sess. and RCW 29.21.210;
- (27) Section 29.21.220, chapter 7, Laws of 1965 and RCW 29.21.220;
- (28) Section 1, chapter 130, Laws of 1967 ex. sess, section 32, chapter 361, Laws of 1977 ex. sess. and RCW 29.21.330;
- (29) Section 29.27.010, chapter 9, Laws of 1965, section 45, chapter 3, Laws of 1983 and RCW 29.27.010;
- (30) Section 29.27.040, chapter 9, Laws of 1965 and RCW 29.27.040;
- (31) Section 29.27.045, chapter 9, Laws of 1965 and RCW 29.27.045;
- (32) Section 29.30.030, chapter 9, Laws of 1965, section 53, chapter 361, Laws of 1977 ex. sess. and RCW 29.30.030;
- (33) Section 57, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.061;
- (34) Section 61, chapter 361, Laws of 1977 ex. sess., section 2, chapter 121, Laws of 1982 and RCW 29.30.091;
- (35) Section 33, chapter 361, Laws of 1977 ex. sess., section 12, chapter 167, Laws of 1986 and RCW 29.30.310;
- (36) Section 34, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.320;
- (37) Section 35, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.330;
- (38) Section 36, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.340;
- (39) Section 37, chapter 361, Laws of 1977 ex. sess., section 4, chapter 120, Laws of 1986, section 5, chapter 295, Laws of 1987 and RCW 29.30-.350;
- (40) Section 39, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.370;
- (41) Section 40, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.380;

- (42) Section 41, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.390;
- (43) Section 42, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.410;
- (44) Section 43, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.420;
- (45) Section 44, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.430;
- (46) Section 45, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.440;
- (47) Section 46, chapter 361, Laws of 1977 ex. sess., section 5, chapter 120, Laws of 1986, section 6, chapter 295, Laws of 1987 and RCW 29.30-.450;
- (48) Section 47, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.460;
- (49) Section 49, chapter 361, Laws of 1977 ex. sess., section 3, chapter 121, Laws of 1982 and RCW 29.30.480;
- (50) Section 50, chapter 361, Laws of 1977 ex. sess. and RCW 29.30-.490;
- (51) Section 29.33.010, chapter 9, Laws of 1965 and RCW 29.33.010;
- (52) Section 29.33.015, chapter 9, Laws of 1965 and RCW 29.33.015;
- (53) Section 29.33.090, chapter 9, Laws of 1965, section 5, chapter 40, Laws of 1982 and RCW 29.33.090;
- (54) Section 29.33.110, chapter 9, Laws of 1965, section 21, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.110;
- (55) Section 29.33.120, chapter 9, Laws of 1965, section 22, chapter 109, Laws of 1967 ex. sess. and RCW 29.33.120;
- (56) Section 29.33.140, chapter 9, Laws of 1965 and RCW 29.33.140;
- (57) Section 29.33.150, chapter 9, Laws of 1965 and RCW 29.33.150;
- (58) Section 29.33.160, chapter 9, Laws of 1965 and RCW 29.33.160;
- (59) Section 29.33.170, chapter 9, Laws of 1965 and RCW 29.33.170;
- (60) Section 29.33.180, chapter 9, Laws of 1965, section 62, chapter 361, Laws of 1977 ex. sess., section 7, chapter 295, Laws of 1987 and RCW 29.33.180;
- (61) Section 29.33.190, chapter 9, Laws of 1965 and RCW 29.33.190;
- (62) Section 29.33.200, chapter 9, Laws of 1965 and RCW 29.33.200;
- (63) Section 29.33.210, chapter 9, Laws of 1965, section 63, chapter 361, Laws of 1977 ex. sess. and RCW 29.33.210;
- (64) Section 29.33.220, chapter 9, Laws of 1965, section 1, chapter 124, Laws of 1971 ex. sess., section 1, chapter 102, Laws of 1973, section 4, chapter 46, Laws of 1975-'76 2nd ex. sess., section 64, chapter 361, Laws of 1977 ex. sess. and RCW 29.33.220;
- (65) Section 11, chapter 109, Laws of 1967 ex. sess., section 65, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.010;

- (66) Section 67, chapter 361, Laws of 1977 ex. sess., section 13, chapter 167, Laws of 1986 and RCW 29.34.125;
- (67) Section 23, chapter 109, Laws of 1967 ex. sess., section 68, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.130;
- (68) Section 24, chapter 109, Laws of 1967 ex. sess. and RCW 29.34.140;
- (69) Section 70, chapter 361, Laws of 1977 ex. sess. and RCW 29.34.145;
- (70) Section 2, chapter 130, Laws of 1967 ex. sess., section 2, chapter 6, Laws of 1971 ex. sess. and RCW 29.34.180;
- (71) Section 29.51.080, chapter 9, Laws of 1965 and RCW 29.51.080;
- (72) Section 29.51.110, chapter 9, Laws of 1965, section 43, chapter 202, Laws of 1971 ex. sess., section 15, chapter 167, Laws of 1986 and RCW 29.51.110;
- (73) Section 29.51.120, chapter 9, Laws of 1965 and RCW 29.51.120;
- (74) Section 29.51.130, chapter 9, Laws of 1965 and RCW 29.51.130;
- (75) Section 29.51.160, chapter 9, Laws of 1965 and RCW 29.51.160;
- (76) Section 29.51.220, chapter 9, Laws of 1965 and RCW 29.51.220;
- (77) Section 29.51.260, chapter 9, Laws of 1965 and RCW 29.51.260;
- (78) Section 29.54.020, chapter 9, Laws of 1965, section 7, chapter 101, Laws of 1965 ex. sess. and RCW 29.54.020;
- (79) Section 29.54.030, chapter 9, Laws of 1965, section 8, chapter 101, Laws of 1965 ex. sess. and RCW 29.54.030;
- (80) Section 29.54.040, chapter 9, Laws of 1965, section 9, chapter 101, Laws of 1965 ex. sess., section 86, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.040;
- (81) Section 12, chapter 101, Laws of 1965 ex. sess., section 2, chapter 109, Laws of 1967 ex. sess. and RCW 29.54.043;
- (82) Section 29.54.045, chapter 9, Laws of 1965, section 10, chapter 101, Laws of 1965 ex. sess., section 4, chapter 102, Laws of 1973, section 87, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.045;
- (83) Section 29.54.070, chapter 9, Laws of 1965, section 10, chapter 109, Laws of 1967 ex. sess., section 90, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.070;
- (84) Section 29.54.080, chapter 9, Laws of 1965, section 91, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.080;
- (85) Section 29.54.090, chapter 9, Laws of 1965 and RCW 29.54.090;
- (86) Section 29.54.100, chapter 9, Laws of 1965 and RCW 29.54.100;
- (87) Section 29.54.110, chapter 9, Laws of 1965 and RCW 29.54.110;
- (88) Section 29.54.120, chapter 9, Laws of 1965 and RCW 29.54.120;
- (89) Section 29.54.130, chapter 9, Laws of 1965, section 92, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.130; and
- (90) Section 29.54.140, chapter 9, Laws of 1965, section 93, chapter 361, Laws of 1977 ex. sess. and RCW 29.54.140.

NEW SECTION. Sec. 113. Sections 1 through 6, 8 through 96, and 98 through 112 of this act shall take effect July 1, 1992.

Passed the House February 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 15, 1990.

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

"I am returning herewith, without my approval as to section 73, House Bill No. 2797 entitled:

"AN ACT Relating to elections."

Section 73 amends RCW 29.21.075. Later, in section 112(14), that statute is repealed.

The provisions of section 73, outlining election procedures for District Court judges, are repeated in sections 80, 94, and 95 of this bill and, therefore, section 73 is redundant. To correct this technical error I have vetoed section 73.

With the exception of section 73, House Bill No. 2797 is approved."

CHAPTER 60

[House Bill No. 2567]

STATE EMPLOYEES—RECRUITMENT, RETENTION, AND DEVELOPMENT

AN ACT Relating to the improvement of state employee recruitment, retention, and development; amending RCW 41.06.070, 41.06.430, and 28B.16.040; reenacting and amending RCW 41.06.150 and 28B.16.100; adding new sections to chapter 41.04 RCW; creating a new section; and decodifying RCW 41.06.300, 41.06.320, and 41.06.330.

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

PART I

STATE AGENCY PERSONNEL

Sec. 101. Section 1, chapter 11, Laws of 1972 ex. sess. as last amended by section 8, chapter 96, Laws of 1989 and RCW 41.06.070 are each amended to read as follows:

The provisions of this chapter do not apply to:

(1) 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;

(2) 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;

(3) Officers, academic personnel, and employees of state institutions of higher education, the state board for community college education, and the higher education personnel board;

(4) The officers of the Washington state patrol;

- (5) Elective officers of the state;
- (6) The chief executive officer of each agency;
- (7) In the departments of employment security, fisheries, social and health services, the director and his confidential secretary; in all other departments, the executive head of which is an individual appointed by the governor, the director, his confidential secretary, and his statutory assistant directors;
- (8) 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:
 - (a) All members of such boards, commissions, or committees;
 - (b) If the members of the board, commission, or committee serve on a part-time basis and there is a statutory executive officer: (i) The secretary of the board, commission, or committee; (ii) the chief executive officer of the board, commission, or committee; and (iii) the confidential secretary of the chief executive officer of the board, commission, or committee;
 - (c) If the members of the board, commission, or committee serve on a full-time basis: (i) The chief executive officer or administrative officer as designated by the board, commission, or committee; and (ii) a confidential secretary to the chairman of the board, commission, or committee;
 - (d) If all members of the board, commission, or committee serve ex officio: (i) The chief executive officer; and (ii) the confidential secretary of such chief executive officer;
- (9) The confidential secretaries and administrative assistants in the immediate offices of the elective officers of the state;
- (10) Assistant attorneys general;
- (11) Commissioned and enlisted personnel in the military service of the state;
- (12) Inmate, student, part-time, or temporary employees, and part-time professional consultants, as defined by the state personnel board or the board having jurisdiction;
- (13) The public printer or to any employees of or positions in the state printing plant;
- (14) Officers and employees of the Washington state fruit commission;
- (15) Officers and employees of the Washington state apple advertising commission;
- (16) Officers and employees of the Washington state dairy products commission;
- (17) Officers and employees of the Washington tree fruit research commission;
- (18) Officers and employees of the Washington state beef commission;
- (19) Officers and employees of any commission formed under the provisions of chapter 191, Laws of 1955, and chapter 15.66 RCW;

(20) Officers and employees of the state wheat commission formed under the provisions of chapter 87, Laws of 1961 (chapter 15.63 RCW);

(21) Officers and employees of agricultural commissions formed under the provisions of chapter 256, Laws of 1961 (chapter 15.65 RCW);

(22) Officers and employees of the nonprofit corporation formed under chapter 67.40 RCW;

(23) Liquor vendors appointed by the Washington state liquor control board pursuant to RCW 66.08.050: PROVIDED, HOWEVER, That rules and regulations adopted by the state personnel 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;

(24) 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;

(25) 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;

(26) All employees of the marine employees' commission;

~~((26))~~ (27) 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;

~~((27))~~ (28) In addition to the exemptions specifically provided by this chapter, the state personnel 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 personnel board stating the reasons for requesting such exemptions. The personnel 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 personnel board shall grant the request and such determination shall be final. The total number of additional exemptions permitted under this subsection shall not exceed one hundred eighty-seven 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 state personnel board shall report to each regular session of the legislature during an odd-numbered year all exemptions granted ~~((pursuant to the provisions of this subsection))~~ under subsections (24), (25), and (28) 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 (10) through (22) of this section, shall be determined by the state personnel 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 ~~((; within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the personnel board may approve one extension of no more than four years, and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982))~~.

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. 102. Section 7, chapter 118, Laws of 1980 and RCW 41.06.430 are each amended to read as follows:

(1) The board, by rule, shall develop a career executive program which recognizes the profession of management and recognizes excellence in managerial skills in order to (a) identify, attract, and retain highly qualified executive candidates, (b) provide outstanding employees a broad opportunity for career development, and (c) provide for the mobility of such employees among agencies, it being to the advantage of the state to make the most beneficial use of individual managerial skills.

(2) To accomplish the purposes of subsection (1) of this section, the board, notwithstanding any other provision of this chapter, may provide policies and standards for recruitment, appointment, examination, training, probation, employment register control, certification, classification, salary

administration, transfer, promotion, reemployment, conditions of employment, and separation separate from procedures established for other employment.

(3) The director, in consultation with affected agencies, shall recommend to the board the classified positions which may be filled by participants in the career executive program. Upon the request of an agency, management positions that are exempt from the state civil service law pursuant to RCW 41.06.070 may be included in all or any part of the career executive program: **PROVIDED**, That an agency may at any time, after providing written notice to the board, withdraw an exempt position from the career executive program. No employee may be placed in the career executive program without the employee's consent.

(4) The number of employees participating in the career executive program shall not exceed ~~((one))~~ two percent of the employees subject to the provisions of this chapter.

(5) The director shall monitor and review the impact of the career executive program to ensure that the responsibilities of the state to provide equal employment opportunities are diligently carried out. The director shall report to the board the impact of the career executive program on the fulfillment of such responsibilities.

(6) Any classified state employee, upon entering a position in the career executive program, shall be entitled subsequently to revert to any class or position previously held with permanent status, or, if such position is not available, revert to a position similar in nature and salary to the position previously held.

Sec. 103. Section 4, chapter 53, Laws of 1982 1st ex. sess. as last amended by section 5, chapter 365, Laws of 1985 and by section 2, chapter 461, Laws of 1985 and RCW 41.06.150 are each reenacted and amended to read as follows:

The board shall adopt rules, consistent with the purposes and provisions of this chapter, as now or hereafter amended, and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The reduction, dismissal, suspension, or demotion of an employee;

(2) Certification of names for vacancies, including departmental promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: **PROVIDED**, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examinations for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Training and career development;

(6) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class, except that entry level state park rangers shall serve a probationary period of twelve months;

(7) Transfers;

(8) Sick leaves and vacations;

(9) Hours of work;

(10) Layoffs when necessary and subsequent reemployment, both according to seniority;

(11) Determination of appropriate bargaining units within any agency: **PROVIDED**, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(12) Certification and decertification of exclusive bargaining representatives: **PROVIDED**, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such a condition of employment constitutes cause for dismissal: **PROVIDED FURTHER**, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: **PROVIDED FURTHER**, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: **AND PROVIDED FURTHER**, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his or her individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(13) Agreements between agencies and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the appointing authority of the appropriate bargaining unit of such agency may lawfully exercise discretion;

(14) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the appointing authority and the employee organization: **PROVIDED**, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his or her official duties;

(15) Adoption and revision of a comprehensive classification plan for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(16) Allocation and reallocation of positions within the classification plan;

(17) Adoption and revision of a state salary schedule to reflect the prevailing rates in Washington state private industries and other governmental units but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 41.06.155, such adoption and revision subject to approval by the director of financial management in accordance with the provisions of chapter 43.88 RCW;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as required by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken state service, as defined by the board, the veteran's service in the military not to exceed five years. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: **PROVIDED, HOWEVER**, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: **PROVIDED FURTHER**, That for the purposes of this section "veteran" does not include any person who has voluntarily retired with

twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Permitting agency heads to delegate the authority to appoint, reduce, dismiss, suspend, or demote employees within their agencies if such agency heads do not have specific statutory authority to so delegate: PROVIDED, That the board may not authorize such delegation to any position lower than the head of a major subdivision of the agency;

(21) Assuring persons who are or have been employed in classified positions under chapter 28B.16 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter((-));

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules pertaining to affirmative action. The department of personnel shall transmit a report annually to the human rights commission which states the progress each state agency has made in meeting affirmative action goals and timetables.

PART II HIGHER EDUCATION PERSONNEL

Sec. 201. Section 4, chapter 36, Laws of 1969 ex. sess. as last amended by section 15, chapter 53, Laws of 1982 1st ex. sess. and RCW 28B.16.040 are each amended to read as follows:

The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter:

(1) Members of the governing board of each institution and related boards, all presidents, vice presidents and their confidential secretaries, administrative and personal assistants; deans, directors, and chairmen; academic personnel; and executive heads of major administrative or academic divisions employed by institutions of higher education; 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.

(2) Student, part time, or temporary employees, and part time professional consultants, as defined by the higher education personnel board, employed by institutions of higher education and related boards.

(3) The director, his confidential secretary, assistant directors, and professional education employees of the state board for community college education.

(4) The personnel director of the higher education personnel board and his confidential secretary.

(5) The governing board of each institution, and related boards, may also exempt from this chapter, subject to the employees right of appeal to the higher education personnel board, classifications involving research activities, counseling of students, extension or continuing education activities, graphic arts or publications activities requiring prescribed academic preparation or special training, and principal assistants to executive heads of major administrative or academic divisions, as determined by the higher education personnel board: **PROVIDED**, That no nonacademic employee engaged in office, clerical, maintenance, or food and trade services may be exempted by the higher education personnel board under this provision.

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 (~~(, within four years from the date of appointment to the exempt position. However, (a) upon the prior request of the appointing authority of the exempt position, the board may approve one extension of no more than four years; and (b) if an appointment was accepted prior to July 10, 1982, then the four-year period shall begin on July 10, 1982).~~).

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. 202. Section 10, chapter 36, Laws of 1969 ex. sess. as last amended by section 1, chapter 365, Laws of 1985 and by section 9, chapter 461, Laws of 1985 and RCW 28B.16.100 are each reenacted and amended to read as follows:

The higher education personnel board shall adopt rules, consistent with the purposes and provisions of this chapter and with the best standards of personnel administration, regarding the basis and procedures to be followed for:

(1) The dismissal, suspension, or demotion of an employee, and appeals therefrom;

(2) Certification of names for vacancies, including promotions, with the number of names equal to four more names than there are vacancies to be filled, such names representing applicants rated highest on eligibility lists: **PROVIDED**, That when other applicants have scores equal to the lowest score among the names certified, their names shall also be certified;

(3) Examination for all positions in the competitive and noncompetitive service;

(4) Appointments;

(5) Probationary periods of six to twelve months and rejections therein, depending on the job requirements of the class;

- (6) Transfers;
- (7) Sick leaves and vacations;
- (8) Hours of work;
- (9) Layoffs when necessary and subsequent reemployment, both according to seniority;

(10) Determination of appropriate bargaining units within any institution or related boards: **PROVIDED**, That in making such determination the board shall consider the duties, skills, and working conditions of the employees, the history of collective bargaining by the employees and their bargaining representatives, the extent of organization among the employees, and the desires of the employees;

(11) Certification and decertification of exclusive bargaining representatives: **PROVIDED**, That after certification of an exclusive bargaining representative and upon the representative's request, the director shall hold an election among employees in a bargaining unit to determine by a majority whether to require as a condition of employment membership in the certified exclusive bargaining representative on or after the thirtieth day following the beginning of employment or the date of such election, whichever is the later, and the failure of an employee to comply with such condition of employment constitutes cause for dismissal: **PROVIDED FURTHER**, That no more often than once in each twelve-month period after expiration of twelve months following the date of the original election in a bargaining unit and upon petition of thirty percent of the members of a bargaining unit the director shall hold an election to determine whether a majority wish to rescind such condition of employment: **PROVIDED FURTHER**, That for purposes of this clause, membership in the certified exclusive bargaining representative is satisfied by the payment of monthly or other periodic dues and does not require payment of initiation, reinstatement, or any other fees or fines and includes full and complete membership rights: **AND PROVIDED FURTHER**, That in order to safeguard the right of nonassociation of public employees, based on bona fide religious tenets or teachings of a church or religious body of which such public employee is a member, such public employee shall pay to the union, for purposes within the program of the union as designated by such employee that would be in harmony with his individual conscience, an amount of money equivalent to regular union dues minus any included monthly premiums for union-sponsored insurance programs, and such employee shall not be a member of the union but is entitled to all the representation rights of a union member;

(12) Agreements between institutions or related boards and certified exclusive bargaining representatives providing for grievance procedures and collective negotiations on all personnel matters over which the institution or the related board may lawfully exercise discretion;

(13) Written agreements may contain provisions for payroll deductions of employee organization dues upon authorization by the employee member

and for the cancellation of such payroll deduction by the filing of a proper prior notice by the employee with the institution and the employee organization: PROVIDED, That nothing contained herein permits or grants to any employee the right to strike or refuse to perform his official duties;

(14) Adoption and revision of comprehensive classification plans for all positions in the classified service, based on investigation and analysis of the duties and responsibilities of each such position;

(15) Allocation and reallocation of positions within the classification plan;

(16) Adoption and revision of salary schedules and compensation plans which reflect the prevailing rates in Washington state private industries and other governmental units for positions of a similar nature but the rates in the salary schedules or plans shall be increased if necessary to attain comparable worth under an implementation plan under RCW 28B.16.116 and which shall be competitive in the state or the locality in which the institution or related boards are located, such adoption, revision, and implementation subject to approval as to availability of funds by the director of financial management in accordance with the provisions of chapter 43.88 RCW, and after consultation with the chief financial officer of each institution or related board for that institution or board, or in the case of community colleges, by the chief financial officer of the state board for community college education for the various community colleges;

(17) Training programs including in-service, promotional, and supervisory;

(18) Increment increases within the series of steps for each pay grade based on length of service for all employees whose standards of performance are such as to permit them to retain job status in the classified service;

(19) Providing for veteran's preference as provided by existing statutes, with recognition of preference in regard to layoffs and subsequent reemployment for veterans and their widows by giving such eligible veterans and their widows additional credit in computing their seniority by adding to their unbroken higher education service, as defined by the board, the veteran's service in the military not to exceed five years of such service. For the purposes of this section, "veteran" means any person who has one or more years of active military service in any branch of the armed forces of the United States or who has less than one year's service and is discharged with a disability incurred in the line of duty or is discharged at the convenience of the government and who, upon termination of such service, has received an honorable discharge, a discharge for physical reasons with an honorable record, or a release from active military service with evidence of service other than that for which an undesirable, bad conduct, or dishonorable discharge shall be given: PROVIDED, HOWEVER, That the widow of a veteran is entitled to the benefits of this section regardless of the veteran's length of active military service: PROVIDED FURTHER, That for the

purposes of this section "veteran" does not include any person who has voluntarily retired with twenty or more years of active military service and whose military retirement pay is in excess of five hundred dollars per month;

(20) Assuring that persons who are or have been employed in classified positions under chapter 41.06 RCW will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions covered by this chapter; and

(21) Assuring that any person who is or has been employed in a classified position under this chapter will be eligible for employment, reemployment, transfer, and promotion in respect to classified positions at any other institution of higher education or related board.

(22) Affirmative action in appointment, promotion, transfer, recruitment, training, and career development; development and implementation of affirmative action goals and timetables; and monitoring of progress against those goals and timetables.

The board shall consult with the human rights commission in the development of rules consistent with federal guidelines pertaining to affirmative action. The board shall transmit a report annually to the human rights commission which states the progress each institution of higher education has made in meeting affirmative action goals and timetables.

PART III EMPLOYEE ASSISTANCE

NEW SECTION. Sec. 301. The legislature finds that:

(1) Assisting employees in resolving personal problems that impair their performance will result in a more productive work force, better morale, reduced stress, reduced use of medical benefits, reduced absenteeism, lower turnover rates, and fewer accidents;

(2) A substantial number of employee problems can be identified and the employees referred to treatment by an employee assistance program;

(3) The state, as an employer, desires to foster a working environment that promotes safety and productivity as well as the health and well-being of its employees.

Therefore, it is the purpose of sections 302 through 304 of this act to assist state employees by establishing a state employee assistance program.

NEW SECTION. Sec. 302. The employee assistance program is hereby created to provide support and services to state employees who have personal problems that impair their performance in the work place. The goal of the program is to help promote a safe, productive, and healthy state work force by assisting state employees and their supervisors to identify and deal with such personal problems. However, nothing in this chapter relieves employees from the responsibility of performing their jobs in an acceptable manner.

NEW SECTION. Sec. 303. The director of human resources shall:

(1) Administer the state employee assistance program to assist employees who have personal problems that adversely affect their job performance or have the potential of doing so;

(2) Develop policies, procedures, and activities for the program;

(3) Encourage and promote the voluntary use of the employee assistance program by increasing employee awareness and disseminating educational materials;

(4) Provide technical assistance and training to agencies on how to use the employee assistance program;

(5) Assist and encourage supervisors to identify and refer employees with problems that impair their performance by incorporating proper use of the program in management training, management performance criteria, ongoing communication with agencies, and other appropriate means;

(6) Offer substance abuse prevention and awareness activities to be provided through the employee assistance program and the state employee wellness program;

(7) Monitor and evaluate the effectiveness of the program, including the collection, analysis, and publication of relevant statistical information; and

(8) Consult with state agencies, institutions of higher education, and employee organizations in carrying out the purposes of sections 301 through 304 of this act.

NEW SECTION. Sec. 304. Individual employees' participation in the employee assistance program and all individually identifiable information gathered in the process of conducting the program shall be held in strict confidence; except that agency management may be provided with the following information about employees referred by that agency management due to poor job performance:

(1) Whether or not the referred employee made an appointment;

(2) The date and time the employee arrived and departed;

(3) Whether the employee agreed to follow the advice of counselors; and

(4) Whether further appointments were scheduled.

Participation or nonparticipation by any employee in the employee assistance program shall not be a factor in any decision affecting an employee's job security, promotional opportunities, corrective or disciplinary action, or other employment rights.

NEW SECTION. Sec. 305. Sections 301 through 304 of this act are each added to chapter 41.04 RCW.

PART IV MISCELLANEOUS

NEW SECTION. Sec. 401. Subheadings as used in this act do not constitute any part of the law.

NEW SECTION. Sec. 402. The following are each decodified:

- (1) RCW 41.06.300;
- (2) RCW 41.06.320; and
- (3) RCW 41.06.330.

NEW SECTION. Sec. 403. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 61

[House Bill No. 2291]

COMMERCIAL SEA CUCUMBER FISHING

AN ACT Relating to commercial sea cucumber fishing; amending RCW 75.30.050; adding a new section to chapter 75.30 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 a significant commercial sea cucumber fishery is developing within state waters. The potential for depletion of the sea cucumber stocks in these waters is increasing, particularly as the sea cucumber fishery becomes an attractive alternative to commercial fishers who face increasing restrictions on other types of commercial fishery activities.

The legislature finds that the number of commercial fishers engaged in commercially harvesting sea cucumbers has rapidly increased. This factor, combined with increases in market demand, has resulted in strong pressures on the supply of sea cucumbers.

The legislature finds that increased regulation of commercial sea cucumber fishing is necessary to preserve and efficiently manage the commercial sea cucumber fishery in the waters of the state.

The legislature finds that it is desirable in the long term to reduce the number of vessels participating in the commercial sea cucumber fishery to fifty vessels to preserve the sea cucumber resource, efficiently manage the commercial sea cucumber fishery in the waters of the state, and reduce conflict with upland owners.

The legislature finds that it is important to preserve the livelihood of those who have historically participated in the commercial sea cucumber fishery that began about 1970 and that the 1988 and 1989 seasons should be used to document historical participation.

NEW SECTION. Sec. 2. A new section is added to chapter 75.30 RCW to read as follows:

(1) After April 30, 1990, it is unlawful to commercially take while using shellfish diver gear any species of sea cucumber without first obtaining a sea cucumber endorsement to accompany a shellfish diver license. A sea cucumber endorsement to a shellfish diver license issued under RCW 75.28.130(5) shall be limited to those vessels which:

(a) Held a commercial shellfish diver license (excluding clams), between January 1, 1989, and December 31, 1989, or had transferred to the vessel such a license, and held a permit for harvest of sea cucumbers in 1989;

(b) Have not transferred the license to another vessel;

(c) Can establish, by means of dated shellfish receiving documents issued by the department, that thirty landings of sea cucumbers were made under the license during the period of January 1, 1988, through December 31, 1989; and

(d) Endorsements issued under this section are a new licensing condition, and the continuing license provisions of RCW 34.05.422(3) are not applicable.

(2) In addition to the requirements of subsection (1) of this section, after December 31, 1991, sea cucumber endorsements to shellfish diver licenses issued under RCW 75.28.130(5) may be issued only to vessels which:

(a) Held a sea cucumber endorsement to a shellfish diver license during the previous two years or had transferred to the vessel such a license; and

(b) Can establish, by means of dated shellfish receiving documents issued by the department, that thirty landings of sea cucumbers totalling at least ten thousand pounds were made under the license during the previous two-year period ending December 31 of the odd-numbered year.

Where failure to obtain the license during either of the previous two years was the result of a license suspension by the department or the court, the vessel may qualify for a license by establishing that the vessel held such a license and a sea cucumber endorsement during the last year in which it was eligible.

(3) The director may reduce or waive any landing or poundage requirement established under this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of any landing or poundage requirement in individual cases if in the board's judgment, extenuating circumstances prevent achievement of the landing or poundage requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(4) Sea cucumber endorsements issued under this section are not transferrable from one owner to another owner except from parent to child,

from spouse to spouse during marriage or as a result of marriage dissolution, or upon death of the owner. This restriction does not prevent changes in vessel operator or transfers between vessels when the vessel owner remains unchanged.

(5) If less than fifty vessels are eligible for sea cucumber endorsements, the director may accept applications for new endorsements from those persons who can demonstrate two years' experience in the Washington state sea cucumber diver fishery. The director shall determine by random selection the successful applicants for the additional endorsements. The number of additional endorsements issued shall be sufficient to maintain up to fifty vessels in the sea cucumber fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea cucumber endorsements, based upon recommendations of a board of review established under RCW 75.30.050.

Sec. 3. Section 5, chapter 106, Laws of 1977 ex. sess. as last amended by section 3, chapter 37, Laws of 1989 and RCW 75.30.050 are each amended to read as follows:

(1) The director shall appoint three-member advisory review boards to hear cases as provided in RCW 75.30.060. Members shall be from:

(a) The salmon charter boat fishing industry in cases involving salmon charter boat licenses or angler permits;

(b) The commercial salmon fishing industry in cases involving commercial salmon licenses;

(c) The commercial crab fishing industry in cases involving Puget Sound crab license endorsements;

(d) The commercial herring fishery in cases involving herring validations;

(e) The commercial Puget Sound whiting fishery in cases involving Puget Sound whiting license endorsements; ~~((and))~~

(f) The commercial sea urchin fishery in cases involving sea urchin endorsements to shellfish diver licenses; and

(g) The commercial sea cucumber fishery in cases involving sea cucumber endorsements to shellfish diver 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 and 43.03.060.

NEW SECTION. Sec. 4. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the House February 6, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 62

[House Bill No. 2868]

COMMERCIAL SEA URCHIN FISHING

AN ACT Relating to commercial sea urchin fishing; amending RCW 75.30.210; amending section 1, chapter 37, Laws of 1989 (uncodified); and declaring an emergency.

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

Sec. 1. Section 1, chapter 37, Laws of 1989 (uncodified) is amended to read as follows:

The legislature finds that a significant commercial sea urchin fishery is developing within state waters. The potential for depletion of the sea urchin stocks in these waters is increasing, particularly as the sea urchin fishery becomes an attractive alternative to fishermen facing increasing restrictions on other types of commercial fishery activities.

The legislature finds that the number of vessels engaged in commercial ((fishermen engaged in)) sea urchin fishing has steadily increased. This factor, combined with advances in marketing techniques, has resulted in strong pressures on the supply of sea urchins. The legislature desires to maintain the livelihood of those vessel owners who have historically and continuously participated in the sea urchin fishery. The legislature desires that the director have the authority to consider extenuating circumstances concerning failure to meet landing requirements for both initial endorsement issuance and endorsement renewal.

The legislature finds that increased regulation of commercial sea urchin fishing is necessary to preserve and efficiently manage the commercial sea urchin fishery in the waters of the state. The legislature is aware that the continuing license provisions of the administrative procedure act, RCW 34.05.422(3) provide procedural safeguards, but finds that the pressure on the sea urchin resource endangers both the resource and the economic well-being of the sea urchin fishery, and desires, therefore, to exempt sea urchin endorsements from the continuing license provision.

Sec. 2. Section 2, chapter 37, Laws of 1989 and RCW 75.30.210 are each amended to read as follows:

(1) After October 1, ~~((1989))~~ 1990, it is unlawful to commercially take any species of sea urchin using shellfish diver gear without first obtaining a sea urchin endorsement to accompany a shellfish diver license. A sea urchin endorsement to a shellfish diver license issued under RCW ~~((75.28.130(4)))~~ 75.28.130(5) shall be limited to those vessels which:

(a) Held a commercial shellfish diver license, excluding clams, ~~((between January 1,))~~ during calendar years 1988((, and December 31, 1988;)) and 1989 or had transferred to the vessel such a license;

(b) Have not transferred the license to another vessel; and

(c) Can establish, by means of dated shellfish receiving documents issued by the department, that twenty thousand pounds of sea urchins were caught and landed under the license during the period of April 1, 1986, through March 31, 1988.

Endorsements issued under this section are a new licensing condition, and the continuing license provisions of RCW 34.05.422(3) are not applicable.

(2) In addition to the requirements of subsection (1) of this section, after December 31, 1991, sea urchin endorsements to shellfish diver licenses issued under RCW ~~((75.28.130(4)))~~ 75.28.130(5) may be issued only to vessels:

(a) Which held a sea urchin endorsement to a shellfish diver license during the previous year or had transferred to the vessel such a license; and

(b) From which twenty thousand pounds of sea urchins were caught and landed in this state during the two-year period ending March 31 of an odd-numbered year, as documented by valid shellfish receiving documents issued by the department.

Where failure to obtain the license during the previous year was the result of a license suspension or revocation by the department, the vessel may qualify for a license by establishing that the vessel held such a license during the last year in which it was eligible.

(3) The director may reduce or waive ~~((the))~~ any landing requirement established under ~~((subsection (2)(b) of))~~ this section upon the recommendation of a board of review established under RCW 75.30.050. The board of review may recommend a reduction or waiver of the landing requirement in individual cases if in the board's judgment, extenuating circumstances prevent achievement of the landing requirement. The director shall adopt rules governing the operation of the board of review and defining "extenuating circumstances."

(4) Sea urchin endorsements issued under this section are not transferable from one owner to another owner, except from parent to child, or from spouse to spouse during marriage or as a result of marriage dissolution, or upon the death of the owner. This restriction applies to all changes in the vessel owner's name on the license, including (a) changes during the license year, and (b) changes during the license renewal process between years. This restriction does not prevent changes in vessel operator or transfers between vessels when the vessel owner remains unchanged. Upon request of a vessel owner, the director may issue a temporary permit to allow the vessel owner to use the license endorsement on a leased or rented vessel.

(5) If less than forty-five vessels are eligible for sea urchin endorsements, the director may accept applications for new endorsements. The director shall determine by random selection the successful applicants for the additional endorsements. The number of additional endorsements issued

shall be sufficient to maintain up to forty-five vessels in the sea urchin fishery. The director shall adopt rules governing the application, selection, and issuance procedure for new sea urchin endorsements, based upon recommendations of a board of review established under RCW 75.30.050.

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

Passed the House February 13, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 63

[House Bill No. 2290]

EMERGING COMMERCIAL FISHERIES—ESTABLISHMENT

AN ACT Relating to the establishment of emerging commercial fisheries through a special harvest permit process; amending RCW 75.08.011; adding new sections to chapter 75.30 RCW; adding a new section to chapter 75.10 RCW; and creating a new section.

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

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

(1) A number of commercial fisheries have emerged or expanded in the past decade;

(2) Scientific information is critical to the proper management of an emerging or expanding commercial fishery; and

(3) The scientific information necessary to manage an emerging or expanding commercial fishery can best be obtained through the use of limited experimental fishery permits allowing harvest levels that will preserve and protect the state's food fish and shellfish resource.

NEW SECTION. Sec. 2. A new section is added to chapter 75.30 RCW to read as follows:

(1) The director may by rule designate a fishery as an emerging commercial fishery.

(2) The director may issue experimental fishery permits for commercial harvest in an emerging commercial fishery. The director shall determine by rule the number and qualifications of participants for such experimental fishery permits. The director shall limit the number of these permits to prevent habitat damage, ensure conservation of the resource, and prevent overharvesting. In developing rules for limiting participation in an emerging or expanding commercial fishery, the director shall appoint a five-person advisory board representative of the affected fishery industry. The advisory

board shall review and make recommendations to the director on rules relating to the number and qualifications of the participants for such supplemental fishery permits.

(3) RCW 34.05.422(3) does not apply to applications for new experimental fishery permits.

(4) Upon request of a vessel owner, the director may allow the vessel owner to temporarily transfer the experimental fishery permit to a leased or rented vessel. The director shall allow such temporary transfers only when the vessel holding the experimental fishery permit is disabled.

NEW SECTION. Sec. 3. A new section is added to chapter 75.30 RCW to read as follows:

Whenever the director promulgates a rule designating an emerging commercial fishery, the legislative standing committees of the house of representatives and senate dealing with fisheries issues shall be notified of the rule and its justification thirty days prior to the effective date of the rule.

NEW SECTION. Sec. 4. A new section is added to chapter 75.30 RCW to read as follows:

Within five years after adopting rules to govern the number and qualifications of participants in an emerging commercial fishery, the director shall provide to the appropriate senate and house of representatives committees a report which outlines the status of the fishery and a recommendation as to whether a separate commercial license, license fee, or endorsement and/or a limited harvest program should be established for that fishery.

NEW SECTION. Sec. 5. A new section is added to chapter 75.10 RCW to read as follows:

Upon conviction of a person for violation of the conditions or requirements of an experimental fishery permit or provisions of this title or rule of the director while engaged in an emerging commercial fishery, the director may suspend or revoke the experimental fishery permit and all fishing privileges pursuant thereto or present the conditions under which the experimental fishery permit may be reissued. That suspension or revocation shall become effective on the date the director gives the notice prescribed in RCW 34.05.422(1)(c).

For the purposes of this section, the term "conviction" means a final conviction in a state or municipal court. An unvacated forfeiture of bail or collateral of more than two hundred fifty dollars deposited to secure the defendant's appearance in court, the payment of a fine, a plea of guilty, or a finding of guilt on a violation of this title is equivalent to a conviction regardless of whether the imposition of sentence is deferred or the penalty is suspended.

Sec. 6. Section 75.04.010, chapter 12, Laws of 1955 as last amended by section 1, chapter 218, Laws of 1989 and RCW 75.08.011 are each 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 fisheries.

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

(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.

(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" 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 abode within the state, has established by formal evidence an intent to continue residing within the state, and is not licensed to 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 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 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) "Emerging commercial fishery" means any commercial fishery:

(a) For food fish or shellfish so designated by rule of the director, except that no species harvested under a license limitation program contained in chapter 75.30 RCW may be designated as a species in an emerging commercial fishery.

(b) Which will include, subject to the limitation in (a) of this subsection, all species harvested for commercial purposes as of the effective date of this act and the future commercial harvest of all other species in the waters of the state of Washington.

(20) "Experimental fishery permit" means a permit issued by the director to allow the recipient to engage in an emerging commercial fishery.

Passed the House March 3, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 64

[Substitute House Bill No. 2609]

POLLUTION LIABILITY INSURANCE PROGRAM

AN ACT Relating to the Washington pollution liability insurance program; amending RCW 70.148.005, 70.148.010, 70.148.020, 70.148.030, 70.148.040, 70.148.050, 70.148.060, 70.148.070, 70.148.080, 70.148.090, and 82.23A.020; adding a new section to chapter 70.148 RCW; repealing RCW 70.148.100; and declaring an emergency.

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

Sec. 1. Section 1, chapter 383, Laws of 1989 and RCW 70.148.005 are each amended to read as follows:

(1) The legislature finds that:

(a) Final regulations adopted by the United States environmental protection agency (EPA) require owners and operators of underground petroleum storage tanks to demonstrate financial responsibility for accidental releases of petroleum as a precondition to continued ownership and operation of such tanks;

(b) Financial responsibility is demonstrated through the purchase of pollution liability insurance or an acceptable alternative such as coverage under a state financial responsibility program, in the amount of at least five hundred thousand dollars per occurrence and one million dollars annual aggregate depending upon the nature, use, and number of tanks owned or operated;

(c) Many owners and operators of underground petroleum storage tanks cannot purchase pollution liability insurance either because private insurance is unavailable at any price or because owners and operators cannot meet the rigid underwriting standards of existing insurers, nor can many owners and operators meet the strict regulatory standards imposed for alternatives to the purchase of insurance; and

(d) Without a state financial responsibility program for owners and operators of underground petroleum storage tanks, many tank owners and operators will be forced to discontinue the ownership and operation of these tanks.

(2) The purpose of this chapter is to create a state financial responsibility program meeting EPA standards for owners and operators of underground petroleum storage tanks in a manner that:

(a) Minimizes state involvement in pollution liability claims management and insurance administration;

(b) Protects the state of Washington from unwanted and unanticipated liability for accidental release claims;

(c) Creates incentives for private insurers to provide needed liability insurance; and

(d) Parallels generally accepted principles of insurance and risk management.

To that end, this chapter establishes a temporary program to provide pollution liability reinsurance at a price that will encourage a private insurance company or risk retention group to sell pollution liability insurance in accordance with the requirements of this chapter to owners and operators of underground petroleum storage tanks, thereby allowing the owners and operators to comply with the financial responsibility regulations of the EPA.

(3) It is not the intent of this chapter to permit owners and operators of underground petroleum storage tanks to obtain pollution liability insurance without regard to the quality or condition of their storage tanks or without regard to the risk management practices of tank owners and operators, nor is it the intent of this chapter to provide coverage or funding for past or existing petroleum releases. Further, it is the intent of the legislature that the program follow generally accepted insurance underwriting and actuarial principles and to deviate from those principles only to the extent necessary and within the tax revenue limits provided, to make pollution liability insurance reasonably affordable and available to owners and operators who meet the requirements of this chapter, particularly to those owners and operators whose underground storage tanks meet a vital economic need within the affected community.

Sec. 2. Section 2, chapter 383, Laws of 1989 and RCW 70.148.010 are each amended to read as follows:

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

(1) "Accidental release" means any sudden or nonsudden release of petroleum arising from operating an underground storage tank that results in a need for corrective action, bodily injury, or property damage neither expected nor intended by the owner or operator.

(2) "~~((Administrator))~~ Director" means the Washington pollution liability ~~((reinsurance))~~ insurance program ~~((administrator))~~ director.

(3) "Bodily injury" means bodily injury, sickness, or disease sustained by any person, including death at any time resulting from the injury, sickness, or disease.

(4) "Corrective action" means those actions reasonably required to be undertaken by the insured to remove, treat, neutralize, contain, or clean up an accidental release in order to comply with any statute, ordinance, rule, regulation, directive, order, or similar legal requirement of the United States, the state of Washington, or any political subdivision of the United States or the state of Washington in effect at the time of an accidental release. "Corrective action" includes, when agreed to in writing, in advance by the insurer, action to remove, treat, neutralize, contain, or clean up an accidental release to avert, reduce, or eliminate the liability of the insured for corrective action, bodily injury, or property damage. "Corrective action"

also includes actions reasonably necessary to monitor, assess, and evaluate an accidental release.

"Corrective action" does not include:

- (a) Replacement or repair of storage tanks or other receptacles;
- (b) Replacement or repair of piping, connections, and valves of storage tanks or other receptacles;
- (c) Excavation or backfilling done in conjunction with (a) or (b) of this subsection; or
- (d) Testing for a suspected accidental release if the results of the testing indicate that there has been no accidental release.

(5) "Defense costs" include the costs of legal representation, expert fees, and related costs and expenses incurred in defending against claims or actions brought by or on behalf of:

- (a) The United States, the state of Washington, or any political subdivision of the United States or state of Washington to require corrective action or to recover costs of corrective action; or
- (b) A third party for bodily injury or property damage caused by an accidental release.

(6) "Washington pollution liability ((reinsurance)) insurance program" or "program" means the ((~~excess of loss~~)) reinsurance program created by this chapter.

(7) "Insured" means the owner or operator who is provided insurance coverage in accordance with this chapter.

(8) "Insurer" means the insurance company or risk retention group licensed or qualified to do business in Washington and authorized by the ((~~administrator~~)) director to provide insurance coverage in accordance with this chapter.

(9) "Loss reserve" means the amount traditionally set aside by commercial liability insurers for costs and expenses related to claims that have been made. "Loss reserve" does not include losses that have been incurred but not reported to the insurer.

(10) "Occurrence" means an accident, including continuous or repeated exposure to conditions, that results in a release from an underground storage tank.

((~~(+0)~~)) (11) "Operator" means a person in control of, or having responsibility for, the daily operation of an underground storage tank.

((~~(+1)~~)) (12) "Owner" means a person who owns an underground storage tank.

((~~(+2)~~)) (13) "Person" means an individual, trust, firm, joint stock company, corporation (including government corporation), partnership, association, consortium, joint venture, commercial entity, state, municipality, commission, political subdivision of a state, interstate body, the federal government, or any department or agency of the federal government.

~~((+3))~~ (14) "Petroleum" means crude oil or any fraction of crude oil that is liquid at standard conditions of temperature and pressure, which means at sixty degrees Fahrenheit and 14.7 pounds per square inch absolute and includes gasoline, kerosene, heating oils, and diesel fuels.

~~((+4))~~ (15) "Property damage" means:

(a) Physical injury to, destruction of, or contamination of tangible property, including the loss of use of the property resulting from the injury, destruction, or contamination; or

(b) Loss of use of tangible property that has not been physically injured, destroyed, or contaminated but has been evacuated, withdrawn from use, or rendered inaccessible because of an accidental release.

~~((+5))~~ (16) "Release" means the emission, discharge, disposal, dispersal, seepage, or escape of petroleum from an underground storage tank into or upon land, ground water, surface water, subsurface soils, or the atmosphere.

(17) "Surplus reserve" means the amount traditionally set aside by commercial property and casualty insurance companies to provide financial protection from unexpected losses and to serve, in part, as a measure of an insurance company's net worth.

~~((+6))~~ (18) "Tank" means a stationary device, designed to contain an accumulation of petroleum, that is constructed primarily of nonearthen materials such as wood, concrete, steel, or plastic that provides structural support.

~~((+7))~~ (19) "Underground storage tank" means any one or a combination of tanks including underground pipes connected to the tank, that is used to contain an accumulation of petroleum and the volume of which (including the volume of the underground pipes connected to the tank) is ten percent or more beneath the surface of the ground.

Sec. 3. Section 3, chapter 383, Laws of 1989 and RCW 70.148.020 are each amended to read as follows:

(1) The pollution liability ((reinsurance)) insurance program trust account is established in the custody of the state treasurer. All funds appropriated for this chapter and all premiums collected for reinsurance shall be deposited in the account. Expenditures from the account shall be used exclusively for the purposes of this chapter including payment of costs of administering the program. The account is subject to allotment procedures under chapter 43.88 RCW. Expenditures for payment of the costs of administering the program may be made only after appropriation by statute. No appropriation is required for other expenditures from the account. The earnings on any surplus balances in the pollution liability ((reinsurance)) insurance program trust account shall be credited to the account notwithstanding RCW 43.84.090.

(2) Each calendar quarter, the director shall report to the insurance commissioner and the chairs of the senate ways and means, senate financial

institutions, house of representatives revenue, and house of representatives financial institutions committees, the loss and surplus reserves required for the calendar quarter. The director shall notify the department of revenue of this amount by the fifteenth day of each calendar quarter.

Sec. 4. Section 4, chapter 383, Laws of 1989 and RCW 70.148.030 are each amended to read as follows:

(1) The Washington pollution liability ((reinsurance)) insurance program is created as an independent agency of the state. The administrative head and appointing authority of the program shall be the ((administrator)) 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 ((administrator)) director shall appoint ((an assistant administrator. The administrator, assistant administrator)) 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 ((administrator)) director shall employ such other staff as are necessary to fulfill the responsibilities and duties of the ((administrator)) director. The staff is subject to the civil service law, chapter 41.06 RCW. In addition, the ((administrator)) 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 ((administrator. The administrator)) director. The director may call upon other agencies of the state to provide technical support and available information as necessary to assist the ((administrator)) director in meeting the ((administrator's)) 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.

Sec. 5. Section 5, chapter 383, Laws of 1989 and RCW 70.148.040 are each amended to read as follows:

The ((administrator)) director may adopt rules consistent with this chapter to carry out the purposes of this chapter. All rules shall be adopted in accordance with chapter 34.05 RCW.

Sec. 6. Section 6, chapter 383, Laws of 1989 and RCW 70.148.050 are each amended to read as follows:

The ((administrator)) director has the following powers and duties:

(1) To design and from time to time revise ((an excess of loss)) a reinsurance contract providing coverage to an insurer meeting the requirements of this chapter. Before initially entering into a reinsurance contract, the director shall provide a report to the chairs of the senate ways and means, senate financial institutions, house of representatives revenue, and house of representatives financial institutions committees and shall include an actuarial report describing the various reinsurance methods considered by the director and describing each method's costs. In designing the reinsurance contract the ((administrator)) director shall consider common insurance industry ((excess of loss)) reinsurance contract provisions and shall design the contract in accordance with the following guidelines:

(a) The contract shall provide coverage to the insurer for the liability risks of owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action that are underwritten by the insurer.

(b) In the event of an insolvency of the insurer, the reinsurance contract shall provide reinsurance payable directly to the insurer or to its liquidator, receiver, or successor on the basis of the liability of the insurer in accordance with the reinsurance contract. In no event may the program be liable for or provide coverage for that portion of any covered loss that is the responsibility of the insurer whether or not the insurer is able to fulfill the responsibility.

(c) The total limit of liability for reinsurance coverage shall not exceed one million dollars per occurrence and two million dollars annual aggregate for each policy underwritten by the insurer less the ultimate net loss retained by the insurer as defined and provided for in the reinsurance contract.

(d) Disputes between the insurer and the ((reinsurance)) insurance program shall be settled through arbitration.

(2) To design and implement a structure of periodic premiums due the ((administrator)) director from the insurer that takes full advantage of revenue collections and projected revenue collections to ensure affordable premiums to the insured consistent with sound actuarial principles.

(3) To periodically review premium rates for reinsurance to determine whether revenue appropriations supporting the program can be reduced without substantially increasing the insured's premium costs.

(4) To solicit bids from insurers and select an insurer to provide pollution liability insurance to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action.

(5) To monitor the activities of the insurer to ensure compliance with this chapter and protect the program from excessive loss exposure resulting from claims mismanagement by the insurer.

(6) To monitor the success of the program and periodically make such reports and recommendations to the legislature as the ((administrator)) director deems appropriate.

(7) To annually report the financial and loss experience of the insurer as to policies issued under the program and the financial and loss experience of the program to the legislature.

(8) To evaluate the effects of the program upon the private market for liability insurance for owners and operators of underground storage tanks and make recommendations to the legislature on the necessity for continuing the program to ensure availability of such coverage.

(9) To enter into contracts with public and private agencies to assist the ((administrator)) director in his or her duties to design, revise, monitor, and evaluate the program and to provide technical or professional assistance to the ((administrator)) director.

(10) To examine the affairs, transactions, accounts, records, documents, and assets of insurers as the ((administrator)) director deems advisable.

Sec. 7. Section 7, chapter 383, Laws of 1989 and RCW 70.148.060 are each amended to read as follows:

(1) All examination and proprietary reports and information obtained by the ((administrator)) director and the ((administrator's)) director's staff in soliciting bids from insurers and in monitoring the insurer selected by the ((administrator)) director shall not be made public or otherwise disclosed to any person, firm, corporation, agency, association, governmental body, or other entity.

(2) Subsection (1) of this section notwithstanding, the ((administra-
tor)) director may furnish all or part of examination reports prepared by the ((administrator)) director or by any person, firm, corporation, association, or other entity preparing the reports on behalf of the ((administrator)) director to:

(a) The Washington state insurance commissioner;

(b) A person or organization officially connected with the insurer as officer, director, attorney, auditor, or independent attorney or independent auditor; and

(c) The attorney general in his or her role as legal advisor to the ((administrator)) director.

(3) Subsection (1) of this section notwithstanding, the ((administrator)) director may furnish all or part of the examination or proprietary reports or information obtained by the ((administrator)) director to:

(a) The Washington state insurance commissioner; and

(b) A person, firm, corporation, association, governmental body, or other entity with whom the ((administrator)) director has contracted for services necessary to perform his or her official duties.

(4) Examination reports and proprietary information obtained by the ((administrator)) director and the ((administrator's)) director's staff are not subject to public disclosure under chapter 42.17 RCW.

(5) A person who violates any provision of this section is guilty of a gross misdemeanor.

Sec. 8. Section 8, chapter 383, Laws of 1989 and RCW 70.148.070 are each amended to read as follows:

(1) In selecting an insurer to provide pollution liability insurance coverage to owners and operators of underground storage tanks, the ((administrator)) director shall evaluate bids based upon criteria established by the ((administrator)) director that shall include:

(a) The insurer's ability to underwrite pollution liability insurance;

(b) The insurer's ability to settle pollution liability claims quickly and efficiently;

(c) The insurer's estimate of underwriting and claims adjustment expenses;

(d) The insurer's estimate of premium rates for providing coverage;

(e) The insurer's ability to manage and invest premiums; and

(f) The insurer's ability to provide risk management guidance to insureds.

The ((administrator)) director shall select the bidder most qualified to provide insurance consistent with this chapter and need not select the bidder submitting the least expensive bid. The ((administrator)) director may consider bids by groups of insurers and management companies who propose to act in concert in providing coverage and who otherwise meet the requirements of this chapter.

(2) The successful bidder shall agree to provide liability insurance coverage to owners and operators of underground storage tanks for third party bodily injury and property damage and corrective action consistent with the following minimum standards:

(a) The insurer shall provide coverage for defense costs.

(b) The insurer shall collect a deductible from the insured for corrective action in an amount approved by the ((administrator)) director.

(c) The insurer shall provide coverage for accidental releases in the amount of five hundred thousand dollars per occurrence and one million

dollars annual aggregate but no more than one million dollars per occurrence and two million dollars annual aggregate exclusive of defense costs.

(d) The insurer shall require insurance applicants to meet at least the following underwriting standards before issuing coverage to the applicant:

(i) The applicant must be in compliance with statutes, ordinances, rules, regulations, and orders governing the ownership and operation of underground storage tanks as identified by the ((administrator)) director by rule; and

(ii) The applicant must exercise adequate underground storage tank risk management as specified by the ((administrator)) director by rule.

(e) The insurer may exclude coverage for losses arising before the effective date of coverage, and the ((administrator)) director may adopt rules establishing standards for determining whether a loss was incurred before the effective date of coverage.

(f) The insurer may exclude coverage for bodily injury, property damage, and corrective action as permitted by the ((administrator)) director by rule.

(g) The insurer shall use a variable rate schedule approved by the ((administrator)) director taking into account tank type, tank age, and other factors specified by the ((administrator)) director.

(3) The ((administrator)) director shall adopt all rules necessary to implement this section. In developing and adopting rules governing rates, deductibles, underwriting standards, and coverage conditions, limitations, and exclusions, the ((administrator)) director shall balance the owner and operator's need for coverage with the need to maintain the actuarial integrity of the program, shall take into consideration the economic impact of the discontinued use of a storage tank upon the affected community, and shall consult with the standing technical advisory committee established under RCW 70.148.030(3). In developing and adopting rules governing coverage exclusions affecting corrective action, the ((administrator)) director shall consult with the Washington state department of ecology.

(4) Notwithstanding the definitions contained in RCW 70.148.010, the ((administrator)) director may permit an insurer to use different words or phrases describing the coverage provided under the program. In permitting such deviations from the definitions contained in RCW 70.148.010, the ((administrator)) director shall consider the regulations adopted by the United States environmental protection agency requiring financial responsibility by owners and operators of underground petroleum storage tanks.

(5) Owners and operators of underground storage tanks or sites containing underground storage tanks where a preexisting release has been identified or where the owner or operator knows of a preexisting release are eligible for coverage under the program subject to the following conditions:

(a) The owner or operator must have a plan for proceeding with corrective action; and

(b) If the owner or operator files a claim with the insurer, the owner or operator has the burden of proving that the claim is not related to a preexisting release until the owner or operator demonstrates to the satisfaction of the ((administrator)) director that corrective action has been completed.

(6) When a reinsurance contract has been entered into by the agency and insurance companies, the director shall notify the department of ecology of the letting of the contract. Within thirty days of that notification, the department of ecology shall notify all known owners and operators of petroleum underground storage tanks that appropriate levels of financial responsibility must be established by October 26, 1990, in accordance with federal environmental protection agency requirements, and that insurance under the program is available. All owners and operators of petroleum underground storage tanks must also be notified that declaration of method of financial responsibility or intent to seek to be insured under the program must be made to the state by November 1, 1990. If the declaration of method of financial responsibility is not made by November 1, 1990, the department of ecology shall, pursuant to chapter 90.76 RCW, prohibit the owner or operator of an underground storage tank from obtaining a tank tag or receiving petroleum products until such time as financial responsibility has been established.

Sec. 9. Section 9, chapter 383, Laws of 1989 and RCW 70.148.080 are each amended to read as follows:

If the insurer cancels or refuses to issue or renew a policy, the affected owner or operator may appeal the insurer's decision to the ((administrator)) director. The ((administrator)) director shall conduct a brief adjudicative proceeding under chapter 34.05 RCW.

Sec. 10. Section 10, chapter 383, Laws of 1989 and RCW 70.148.090 are each amended to read as follows:

(1) The activities and operations of the program are exempt from the provisions and requirements of Title 48 RCW and to the extent of their participation in the program, the activities and operations of the insurer selected by the ((administrator)) director to provide liability insurance coverage to owners and operators of underground storage tanks are exempt from the requirements of Title 48 RCW except for:

- (a) Chapter 48.03 RCW pertaining to examinations;
- (b) RCW 48.05.250 pertaining to annual reports;
- (c) Chapter 48.12 RCW pertaining to assets and liabilities;
- (d) Chapter 48.13 RCW pertaining to investments;
- (e) Chapter 48.30 RCW pertaining to deceptive, false, or fraudulent acts or practices; and
- (f) Chapter 48.92 RCW pertaining to liability risk retention.

(2) To the extent of their participation in the program, the insurer selected by the ((administrator)) director to provide liability insurance coverage to owners and operators of underground storage tanks shall not

participate in the Washington insurance guaranty association nor shall the association be liable for coverage provided to owners and operators of underground storage tanks issued in connection with the program.

NEW SECTION. Sec. 11. A new section is added to chapter 70.148 RCW to read as follows:

The director may design the program to cover the costs incurred in determining whether a proposed applicant for pollution insurance under the program meets the underwriting standards of the insurer. In covering such costs the director shall consider the financial resources of the applicant, shall take into consideration the economic impact of the discontinued use of the applicant's storage tank upon the affected community, shall provide coverage within the revenue limits provided under this chapter, and shall limit coverage of such costs to the extent that coverage would be detrimental to providing affordable insurance under the program.

Sec. 12. Section 16, chapter 383, Laws of 1989 and RCW 82.23A.020 are each amended to read as follows:

(1) A tax is imposed on the privilege of possession of petroleum products in this state. The rate of the tax shall be fifty one-hundredths of one percent multiplied by the wholesale value of the petroleum product.

(2) Moneys collected under this chapter shall be deposited in the pollution liability ((reinsurance)) insurance program trust account under RCW 70.148.020.

(3) Chapter 82.32 RCW applies to the tax imposed in this chapter. The tax due dates, reporting periods, and return requirements applicable to chapter 82.04 RCW apply equally to the tax imposed in this chapter.

(4) Within thirty days after the end of each calendar quarter the department shall determine the "quarterly balance," which shall be the cash balance in the pollution liability ((reinsurance)) insurance program trust account as of the last day of that calendar quarter, after excluding the reserves determined for that quarter under RCW 70.148.020(2). Balance determinations by the department under this section are final and shall not be used to challenge the validity of any tax imposed under this section. For each subsequent calendar quarter, tax shall be imposed under this section during the entire calendar quarter unless:

(a) Tax was imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than fifteen million dollars; or

(b) Tax was not imposed under this section during the immediately preceding calendar quarter, and the most recent quarterly balance is more than seven million five hundred thousand dollars.

NEW SECTION. Sec. 13. Section 11, chapter 383, Laws of 1989 and RCW 70.148.100 are each repealed.

NEW SECTION. Sec. 14. 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 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 65

[Senate Bill No. 5712]

ENVIRONMENTAL HEARINGS OFFICE—ADMINISTRATIVE APPEALS JUDGES

AN ACT Relating to the environmental hearings office; and amending RCW 43.21B.005, 43.21B.090, 43.21B.130, 43.21B.150, 43.21B.160, and 43.21B.230.

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

Sec. 1. Section 2, chapter 47, Laws of 1979 ex. sess. as amended by section 3, chapter 173, Laws of 1986 and RCW 43.21B.005 are each amended to read as follows:

There is created an environmental hearings office of the state of Washington. The environmental hearings office shall consist of the pollution control hearings board created in RCW 43.21B.010, the forest practices appeals board created in RCW 76.09.210, the shorelines hearings board created in RCW 90.58.170, and the hydraulic appeals board created in RCW 75.20.130. The chairman of the pollution control hearings board shall be the chief executive officer of the environmental hearings office. Membership, powers, functions, and duties of the pollution control hearings board, the forest practices appeals board, the shorelines hearings board, and the hydraulic appeals board shall be as provided by law.

The chief executive officer of the environmental hearings office may appoint(~~(, discharge, and fix the compensation of such staff as may be necessary or may contract for required services. Employees of the environmental hearings office shall serve each board at the direction of the chief executive officer of the environmental hearings office))~~ an administrative appeals judge who shall possess the powers and duties conferred by the administrative procedure act, chapter 34.05 RCW, in cases before the boards comprising the office. The administrative appeals judge shall have a demonstrated knowledge of environmental law, and shall be admitted to the practice of law in the state of Washington. Additional administrative appeals judges may also be appointed by the chief executive officer on the same terms. Administrative appeals judges shall not be subject to chapter 41.06 RCW.

The chief executive officer may appoint, discharge, and fix the compensation of such administrative or clerical staff as may be necessary.

The chief executive officer may also contract for required services.

Sec. 2. Section 39, chapter 62, Laws of 1970 ex. sess. as amended by section 1, chapter 69, Laws of 1974 ex. sess. and RCW 43.21B.090 are each amended to read as follows:

The principal office of the hearings board shall be at the state capitol, but it may sit or hold hearings at any other place in the state. A majority of the hearings board shall constitute a quorum for making orders or decisions, promulgating rules and regulations necessary for the conduct of its powers and duties, or transacting other official business, and may act though one position of the hearings board be vacant. One or more members may hold hearings and take testimony to be reported for action by the hearings board when authorized by rule or order of the hearings board. ~~((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 34.04 RCW as now or hereafter amended. PROVIDED, That the findings of the hearing examiner shall not become final until they have been formally approved by the board.))~~ The hearings board shall perform all the powers and duties specified in this chapter or as otherwise provided by law.

Sec. 3. Section 43, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B.130 are each amended to read as follows:

The administrative procedure act, chapter ~~((34.04))~~ 34.05 RCW, shall apply to the appeal of rules and regulations adopted by the board to the same extent as it applied to the review of rules and regulations adopted by the directors and/or boards or commissions of the various departments whose powers, duties and functions ~~((are))~~ were transferred by ~~((this 1970 act))~~ section 6, chapter 62, Laws of 1970 ex. sess. to the department. All other decisions and orders of the director and all decisions of air pollution control boards or authorities established pursuant to chapter 70.94 RCW shall be subject to review by the hearings board as provided in this ~~((1970 act))~~ chapter.

Sec. 4. Section 45, chapter 62, Laws of 1970 ex. sess. as amended by section 2, chapter 69, Laws of 1974 ex. sess. and RCW 43.21B.150 are each amended to read as follows:

In all appeals involving an informal hearing, the hearings board ~~((or its hearing examiners))~~ shall have all powers relating to the administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies by chapter ~~((34.04))~~ 34.05 RCW. In the case of appeals within the ~~((scope of this 1970 act))~~ jurisdiction of the hearings board, the hearings board or any member thereof may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings

board or any member thereof may deem necessary or appropriate: **PROVIDED**, That any communication, oral or written, from the staff of the director to the hearings board (~~((or its hearing examiners))~~) shall be presented only in an open hearing.

Sec. 5. Section 46, chapter 62, Laws of 1970 ex. sess. as last amended by section 103, chapter 175, Laws of 1989 and RCW 43.21B.160 are each amended to read as follows:

In all appeals involving a formal hearing, the hearings board (~~((or its hearing examiners))~~) shall have all powers relating to administration of oaths, issuance of subpoenas, and taking of depositions as are granted to agencies in chapter 34.05 RCW, the Administrative Procedure Act(~~(; and)~~). The hearings board, and each member thereof, ((or its hearing examiners,)) 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. In the case of appeals within the ((scope of this chapter)) jurisdiction of the hearings board, the hearings board, or any member thereof, may obtain such assistance, including the making of field investigations, from the staff of the director as the hearings board, or any member thereof, may deem necessary or appropriate(~~(- PROVIDED; That)~~). Any communication, oral or written, from the staff of the director to the hearings board ((or its hearing examiners,)) shall be presented only in an open hearing.

Sec. 6. Section 53, chapter 62, Laws of 1970 ex. sess. and RCW 43.21B.230 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 (~~((under the provisions of this 1970 amendatory act))~~) 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.

Passed the Senate March 3, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 66

[Substitute House Bill No. 2513]

LITTER CLEANUP—USE OF NONVIOLENT DRUG OFFENDERS TO ASSIST LOCAL GOVERNMENTS

AN ACT Relating to litter; adding a new section to chapter 70.93 RCW; adding a new section to chapter 72.09 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature finds that the amount of litter along the state's roadways is increasing at an alarming rate and that local governments often lack the human and fiscal resources to remove litter from public roads. The legislature also finds that persons committing nonviolent, drug-related offenses can often be productively engaged through programs to remove litter from county and municipal roads. It is therefore the intent of the legislature to assist local units of government in establishing community service programs for litter cleanup and to establish a funding source for such programs.

NEW SECTION. Sec. 2. A new section is added to chapter 72.09 RCW to read as follows:

(1) The department shall assist local units of government in establishing community service programs for litter cleanup. Community service litter cleanup programs must include the following: (a) Procedures for documenting the number of community service hours worked in litter cleanup by each offender; (b) plans to coordinate litter cleanup activities with local governmental entities responsible for roadside and park maintenance; (c) insurance coverage for offenders during litter cleanup activities pursuant to RCW 51.12.045; (d) provision of adequate safety equipment and, if needed, weather protection gear; and (e) provision for including felons and misdemeanants in the program.

(2) Community service programs established under this section shall involve, but not be limited to, persons convicted of nonviolent, drug-related offenses.

(3) Nothing in this section shall diminish the department's authority to place offenders in community service programs or to determine the suitability of offenders for specific programs.

(4) As used in this section, "litter cleanup" includes cleanup and removal of solid waste that is illegally dumped.

NEW SECTION. Sec. 3. A new section is added to chapter 70.93 RCW to read as follows:

The department shall provide grants to local units of government to establish, conduct, and evaluate community service programs for litter cleanup. Programs eligible for grants under this section shall include, but

not be limited to, programs established pursuant to section 2 of this act. The department shall report to the appropriate standing committees of the legislature by December 31, 1991, on the effectiveness of community service litter cleanup programs funded from grants under this section.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 67

[House Bill No. 2343]

TAX INFORMATION—RELEASE TO UNITED STATES AND CANADIAN GOVERNMENT AGENCIES

AN ACT Relating to tax information and the secrecy clause; and amending RCW 82.32.330.

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

Sec. 1. Section 82.32.330, chapter 15, Laws of 1961 as last amended by section 9, chapter 414, Laws of 1985 and RCW 82.32.330 are each amended to read as follows:

Except as hereinafter provided it shall be unlawful for the department of revenue or any member, deputy, clerk, agent, employee, or representative thereof or any other person to make known or reveal any facts or information contained in any return filed by any taxpayer or disclosed in any investigation or examination of the taxpayer's books and records made in connection with the administration hereof. The foregoing, however, shall not be construed to prohibit the department of revenue or a member or employee thereof from: (1) Giving such facts or information in evidence in any court action involving tax imposed hereunder or involving a violation of the provisions hereof or involving another state department and the taxpayer; (2) giving such facts and information to the taxpayer or his duly authorized agent; (3) publishing statistics so classified as to prevent the identification of particular returns or reports or items thereof; (4) giving such facts or information, for official purposes only, to the governor or attorney general, or to any state department, agency, board, commission, council, or any committee or subcommittee of the legislature dealing with matters of taxation, revenue, trade, commerce, the control of industry or the professions; (5) permitting its records to be audited and examined by the proper state officer, his agents and employees; (6) giving any such facts or information to the proper officer of the internal revenue service of the United States, the Canadian government or provincial governments of Canada, or to the proper officer of the tax department of any state or city or town or county, for official purposes, but only if the statutes of the United States, Canada or its provincial governments, or of such other state or city or town or county, as

the case may be, grants substantially similar privileges to the proper officers of this state; or (7) giving any such facts or information to the Department of Justice, the Bureau of Alcohol, Tobacco and Firearms of the Department of the Treasury, or the army or navy departments of the United States, the United States customs service, the coast guard of the United States, and the United States department of transportation, or any authorized representative thereof, for official purposes.

Any person acquiring knowledge of such facts or information in the course of his employment with the department of revenue and any person acquiring knowledge of such facts and information as provided under (4), (5), (6) and (7) above, who reveals or makes known any such facts or information to another not entitled to knowledge of such facts or information under the provisions of this section, shall be punished by a fine of not exceeding one thousand dollars and, if the offender or person guilty of such violation is an officer or employee of the state, he shall forfeit such office or employment and shall be incapable of holding any public office or employment in this state for a period of two years thereafter.

Passed the House February 9, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 68

[House Bill No. 2438]

STATE LIBRARY EMPLOYEES—REIMBURSEMENT FOR ASSAULTS UPON

AN ACT Relating to the state library; and adding a new section to chapter 27.04 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 27.04 RCW to read as follows:

(1) In recognition of prison overcrowding and the hazardous nature of employment in state institutions and offices, the legislature hereby provides a supplementary program to reimburse employees of the state library for some of their costs attributable to their being the victims of offender or resident assaults. This program shall be limited to the reimbursement provided in this section.

(2) An employee is only entitled to receive the reimbursement provided in this section if the state librarian, or the state librarian's designee, finds that each of the following has occurred:

(a) An offender or resident has assaulted the employee while the employee is performing the employee's official duties and as a result thereof the employee has sustained injuries which have required the employee to miss days of work; and

(b) The assault cannot be attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment.

(3) The reimbursement authorized under this section shall be as follows:

(a) The employee's accumulated sick leave days shall not be reduced for the workdays missed;

(b) For each workday missed for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay; and

(c) With respect to workdays missed for which the employee will receive or has received compensation under chapter 51.32 RCW, the employee shall be reimbursed in an amount which, when added to that compensation, will result in the employee receiving full pay for the workdays missed.

(4) Reimbursement under this section may not last longer than three hundred sixty-five consecutive days after the date of the injury.

(5) The employee shall not be entitled to the reimbursement provided in subsection (3) of this section for any workday for which the state librarian, or the state librarian's designee, finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) The reimbursement shall only be made for absences which the state librarian, or the state librarian's designee, believes are justified.

(7) While the employee is receiving reimbursement under this section, he or she shall continue to be classified as a state employee and the reimbursement amount shall be considered as salary or wages.

(8) All reimbursement payments required to be made to employees under this section shall be made by the state library. The payments shall be considered as a salary or wage expense and shall be paid by the state library in the same manner and from the same appropriations as other salary and wage expenses of the state library.

(9) Should the legislature revoke the reimbursement authorized under this section or repeal this section, no affected employee is entitled thereafter to receive the reimbursement as a matter of contractual right.

(10) For the purposes of this section, "offender or resident" means: (a) Inmate as defined in RCW 72.09.020, (b) offender as defined in RCW 9.94A.030, (c) any other person in the custody of or subject to the jurisdiction of the department of corrections, or (d) a resident of a state institution.

Passed the House February 12, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 69

[Substitute House Bill No. 2344]

TAXES—PAYMENT BY ELECTRONIC FUNDS TRANSFERS

AN ACT Relating to the payment of taxes by electronic funds transfer; amending RCW 82.32.060 and 82.32.080; adding a new section to chapter 82.32 RCW; and providing an effective date.

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

Sec. 1. Section 82.32.060, chapter 15, Laws of 1961 as last amended by section 20, chapter 378, Laws of 1989 and RCW 82.32.060 are each amended to read as follows:

If, upon receipt of an application by a taxpayer for a refund or for an audit of the taxpayer's records, or upon an examination of the returns or records of any taxpayer, it is determined by the department that within the statutory period for assessment of taxes prescribed by RCW 82.32.050 a tax has been paid in excess of that properly due, the excess amount paid within such period shall be credited to the taxpayer's account or shall be refunded to the taxpayer, at the taxpayer's option. No refund or credit shall be made for taxes paid more than four years prior to the beginning of the calendar year in which the refund application is made or examination of records is completed.

Notwithstanding the foregoing limitations there shall be refunded or credited to taxpayers engaged in the performance of United States government contracts or subcontracts the amount of any tax paid, measured by that portion of the amounts received from the United States, which the taxpayer is required by contract or applicable federal statute to refund or credit to the United States, if claim for such refund is filed by the taxpayer with the department within one year of the date that the amount of the refund or credit due to the United States is finally determined and filed within four years of the date on which the tax was paid: PROVIDED, That no interest shall be allowed on such refund.

Any such refunds shall be made by means of vouchers approved by the department and by the issuance of state warrants drawn upon and payable from such funds as the legislature may provide. However, taxpayers who are required to pay taxes by electronic funds transfer under RCW 82.32.080 shall have any refunds paid by electronic funds transfer.

Any judgment for which a recovery is granted by any court of competent jurisdiction, not appealed from, for tax, penalties, and interest which were paid by the taxpayer, and costs, in a suit by any taxpayer shall be paid in like manner, upon the filing with the department of a certified copy of the order or judgment of the court. Except as to the credits in computing tax authorized by RCW 82.04.435, interest at the rate of three percent per annum shall be allowed by the department and by any court on the amount of

any refund or recovery allowed to a taxpayer for taxes, penalties, or interest paid by the taxpayer.

Sec. 2. Section 82.32.080, chapter 15, Laws of 1961 as last amended by section 18, chapter 299, Laws of 1987 ex. sess. and RCW 82.32.080 are each amended to read as follows:

Payment of the tax may be made by uncertified check under such regulations as the department shall prescribe, but, if a check so received is not paid by the bank on which it is drawn, the taxpayer, by whom such check is tendered, shall remain liable for payment of the tax and for all legal penalties, the same as if such check had not been tendered.

Payment of the tax is to be made by electronic funds transfer if the amount of the tax due in a calendar year is two hundred forty thousand dollars or more, provided that until January 1, 1992, electronic funds transfer shall be required only if the tax due is one million eight hundred thousand dollars or more. After January 1, 1992, the department may by rule provide for tax thresholds between two hundred forty thousand dollars and one million eight hundred thousand dollars for mandatory use of electronic funds transfer. All taxes administered by this chapter are subject to this requirement except the taxes authorized by chapters 82.14A, 82.14B, 82.24, 82.27, 82.29A, and 84.33 RCW. It is the intent of this section to require electronic funds transfer for those taxes reported on the department's combined excise tax return or any successor return.

A return or remittance which is transmitted to the department by United States mail shall be deemed filed or received on the date shown by the post office cancellation mark stamped upon the envelope containing it, except as otherwise provided in this chapter.

The department, for good cause shown, may extend the time for making and filing any return, and may grant such reasonable additional time within which to make and file returns as it may deem proper, but any permanent extension granting the taxpayer a reporting date without penalty more than ten days beyond the due date, and any extension in excess of thirty days shall be conditional on deposit with the department of an amount to be determined by the department which shall be approximately equal to the estimated tax liability for the reporting period or periods for which the extension is granted. In the case of a permanent extension or a temporary extension of more than thirty days the deposit shall be deposited within the state treasury with other tax funds and a credit recorded to the taxpayer's account which may be applied to taxpayer's liability upon cancellation of the permanent extension or upon reporting of the tax liability where an extension of more than thirty days has been granted.

The department shall review the requirement for deposit at least annually and may require a change in the amount of the deposit required when it believes that such amount does not approximate the tax liability for the reporting period or periods for which the extension is granted.

The department shall keep full and accurate records of all funds received and disbursed by it. Subject to the provisions of RCW 82.32.105 and 82.32.350, the department shall apply the payment of the taxpayer first against penalties and interest, and then upon the tax, without regard to any direction of the taxpayer.

The department may refuse to accept any return which is not accompanied by a remittance of the tax shown to be due thereon. When such return is not accepted, the taxpayer shall be deemed to have failed or refused to file a return and shall be subject to the procedures provided in RCW 82.32.100 and to the penalties provided in RCW 82.32.090. The above authority to refuse to accept a return shall not apply when a return is timely filed and a timely payment has been made by electronic funds transfer.

NEW SECTION. Sec. 3. A new section is added to chapter 82.32 RCW to read as follows:

"Electronic funds transfer" means any transfer of funds, other than a transaction originated by check, drafts, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

The electronic funds transfer is to be completed so that the state receives collectible funds on or before the next banking day following the due date.

The department shall adopt rules necessary to implement the provisions of RCW 82.32.080 and this section. The rules shall include but are not limited to: (1) Coordinating the filing of tax returns with payment by electronic funds transfer; (2) form and content of electronic funds transfer; (3) voluntary use of electronic funds transfer with permission of the department; (4) use of commonly accepted means of electronic funds transfer; (5) means of crediting and recording proof of payment; and (6) means of correcting errors in transmission. Any changes in the threshold of tax shall be implemented with a separate rule-making procedure.

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

NEW SECTION. Sec. 5. This act shall take effect January 1, 1991.

Passed the House February 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 70

[Substitute House Bill No. 2457]

EMPLOYMENT LISTING OR REFERRAL AGENCIES

AN ACT Relating to employment agencies; and amending RCW 19.31.020 and 19.31.245.

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

Sec. 1. Section 2, chapter 228, Laws of 1969 ex. sess. as last amended by section 82, chapter 158, Laws of 1979 and RCW 19.31.020 are each amended to read as follows:

Unless a different meaning is clearly required by the context, the following words and phrases, as hereinafter used in this chapter, shall have the following meanings:

(1) "Employment agency" is synonymous with "agency" and shall mean any business in which any part of the business gross or net income is derived from a fee received from applicants, and in which any of the following activities are engaged in:

(a) The offering, promising, procuring, or attempting to procure employment for applicants; or

(b) The giving of information regarding where and from whom employment may be obtained.

In addition the term "employment agency" shall mean and include any person, bureau, employment listing or employment referral service, organization, or school which for profit, by advertisement or otherwise, offers, as one of its main objects or purposes, to procure employment for any person who pays for its services, or which collects tuition, or charges for service of any nature, where the main object of the person paying the same is to secure employment. It also includes any business that provides a resume to an individual and provides that person with a list of names to whom the resume may be sent or provides that person with preaddressed envelopes to be mailed by the individual or by the business itself. The term "employment agency" shall not include labor union organizations, temporary service contractors, proprietary schools, theatrical agencies, farm labor contractors, or the Washington state employment agency.

(2) "Temporary service contractors" shall mean any person, firm, association, or corporation conducting a business which consists of employing individuals directly for the purpose of furnishing such individuals on a part time or temporary help basis to others.

(3) "Theatrical agency" means any person who, for a fee or commission, procures or attempts to procure on behalf of an individual or individuals, employment or engagements for circus, vaudeville, the variety field, the legitimate theater, motion pictures, radio, television, phonograph recordings,

transcriptions, opera, concert, ballet, modeling, or other entertainments, exhibitions, or performances.

(4) "Farm labor contractor" means any person, or his agent, who, for a fee, employs workers to render personal services in connection with the production of any farm products, to, for, or under the direction of an employer engaged in the growing, producing, or harvesting of farm products, or who recruits, solicits, supplies, or hires workers on behalf of an employer engaged in the growing, producing, or harvesting of farm products or who provides in connection with recruiting, soliciting, supplying, or hiring workers engaged in the growing, producing, or harvesting of farm products, one or more of the following services: Furnishes board, lodging, or transportation for such workers, supervises, times, checks, counts, sizes, or otherwise directs or measures their work; or disburses wage payments to such persons.

(5) "Employer" means any person, firm, corporation, partnership, or association employing or seeking to enter into an arrangement to employ a person through the medium or service of an employment agency.

(6) "Applicant", except when used to describe an applicant for an employment agency license, means any person, whether employed or unemployed, seeking or entering into any arrangement for his employment or change of his employment through the medium or service of an employment agency.

(7) "Person" includes any individual, firm, corporation, partnership, association, company, society, manager, contractor, subcontractor, bureau, agency, service, office, or an agent or employee of any of the foregoing.

(8) "Director" shall mean the director of licensing.

(9) "Resume" means a document of the applicant's employment history that is approved, received, and paid for by the applicant.

(10) "Fee" means anything of value. The term includes money or other valuable consideration or services or the promise of money or other valuable consideration or services, received directly or indirectly by an employment agency from a person seeking employment, in payment for the service.

Sec. 2. Section 10, chapter 51, Laws of 1977 ex. sess. and RCW 19.31.245 are each amended to read as follows:

(1) No employment agency may bring or maintain a cause of action in any court of this state for compensation for, or seeking equitable relief in regard to, services rendered employers and applicants, unless such agency shall allege and prove that at the time of rendering the services in question, or making the contract therefor, it was the holder of a valid license issued under this chapter.

(2) Any person who shall give consideration of any kind to any employment agency for the performance of employment services in this state when said employment agency shall not be the holder of a valid license issued under this chapter shall have a cause of action against the employment agency. Any court having jurisdiction may enter judgment therein for treble

the amount of such consideration so paid, plus reasonable attorney's fees and costs.

(3) A person performing the services of an employment agency or employment listing or employment referral service without holding a valid license shall cease operations or immediately apply for and obtain a valid license. If the person continues to operate in violation of this chapter the director or the attorney general has a cause of action in any court having jurisdiction for the return of any consideration paid by any person to the agency. The court may enter judgment in the action for treble the amount of the consideration so paid, plus reasonable attorney's fees and costs.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 71

[House Bill No. 2289]

CONSERVATION CORPS—REIMBURSEMENT OF MEMBERS

AN ACT Relating to the conservation corps; amending RCW 43.220.070 and 43.220.230; 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 Washington conservation corps has proven to be an effective method to provide meaningful work experience for many of the state's young persons. Because of recent, and possible future, increases in the minimum wage laws, it is necessary to make an adjustment in the limitation that applies to corps member reimbursements.

Sec. 2. Section 48, chapter 266, Laws of 1986 as amended by section 1, chapter 78, Laws of 1988 and RCW 43.220.070 are each amended to read as follows:

(1) Conservation corps members shall be unemployed residents of the state between eighteen and twenty-five years of age at the time of enrollment who are citizens or lawful permanent residents of the United States. The age requirements may be waived for corps leaders and specialists with special leadership or occupational skills; such members shall be given special responsibility for providing leadership, character development, and sense of community responsibility to the corps members, groups, and work crews to which they are assigned. The upper age requirement may be waived for residents who have a sensory or mental handicap. Special effort shall be made to recruit minority and disadvantaged youth who meet selection criteria of the conservation corps. Preference shall be given to youths

residing in areas, both urban and rural, in which there exists substantial unemployment exceeding the state average unemployment rate.

(2) The legislature finds that people with developmental disabilities would benefit from experiencing a meaningful work experience, and learning the value of labor and of membership in a productive society.

The legislature urges state agencies that are participating in the Washington conservation corps program to consider for enrollment in the program people who have developmental disabilities, as defined in RCW 71A.10.020.

If an agency chooses to enroll people with developmental disabilities in its Washington conservation corps program, the agency may apply to the United States department of labor, employment standards administration for a special subminimum wage certificate in order to be allowed to pay enrollees with developmental disabilities according to their individual levels of productivity.

(3) Corps members shall not be considered state employees. Other provisions of law relating to civil service, hours of work, rate of compensation, sick leave, unemployment compensation, state retirement plans, and vacation leave do not apply to the Washington conservation corps except for the crew leaders, who shall be project employees, and the administrative and supervisory personnel.

((3)) (4) Enrollment shall be for a period of six months which may be extended for an additional six months by mutual agreement of the corps and the corps member. Corps members shall be reimbursed at the minimum wage rate established by state or federal law, whichever is higher: PROVIDED, That if agencies elect to run a residential program, the appropriate costs for room and board shall be deducted from the corps member's paycheck as provided in chapter 43.220 RCW.

((4)) (5) Corps members are to be available at all times for emergency response services coordinated through the department of community development or other public agency. Duties may include sandbagging and flood cleanup, search and rescue, and other functions in response to emergencies.

Sec. 3. Section 3, chapter 230, Laws of 1985 and RCW 43.220.230 are each amended to read as follows:

(1) Not more than fifteen percent of the funds available for the Washington conservation corps and the ~~((youth employment exchange))~~ Washington service corps prescribed in chapter 50.65 RCW shall be expended for the cost of administration. For the purpose of this chapter, administrative costs are defined as including, but not limited to, program planning and evaluation, budget development and monitoring, personnel management, contract administration, payroll, development of program reports, normal recruitment and placement procedures, standard office space, and costs and utilities.

(2) The fifteen percent limitation does not include costs for any of the following: Program support activities such as direct supervision of enrollees, counseling, job training, equipment, and extraordinary recruitment procedures necessary to fill project positions.

(3) The total costs for all items included under subsection (1) of this section and excluded from the fifteen percent lid under subsection (2) of this section shall not: (a) Exceed thirty percent of the appropriated funds available during a fiscal biennium for the Washington conservation corps and the ~~((youth employment exchange))~~ Washington service corps programs; or (b) result in the average cost per enrollee exceeding ~~((seven thousand dollars))~~ the level established by the following formula: Corps member basic hourly wage multiplied by two thousand eighty. The tests included in items (a) and (b) of this subsection are in the alternative and it is only required that one of these tests be satisfied. For purposes of this section, the term administrative costs does not include those extraordinary placement costs of the department of employment security for which the department is eligible for reimbursement under RCW 43.220.240. The provisions of this section apply separately to each corps agency listed in RCW 43.220.020.

Passed the House February 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 72

[Substitute Senate Bill No. 5300]

APPRENTICESHIPS FOR WOMEN AND RACIAL MINORITIES

AN ACT Relating to women and minority races in apprenticeship; amending RCW 49.04.100, 49.04.110, 49.04.120, and 49.04.130; and amending section 1, chapter 183, Laws of 1969 ex. sess. (uncodified).

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

Sec. 1. Section 2, chapter 183, Laws of 1969 ex. sess. as amended by section 17, chapter 6, Laws of 1985 and RCW 49.04.100 are each amended to read as follows:

Joint apprenticeship programs entered into under authority of chapter 49.04 RCW and which receive any state assistance in instructional or other costs, shall ~~((as a part thereof))~~ include entrance of ~~((minority races))~~ women and racial minorities in such program, when available, in a ratio not less than the ~~((ratio which the minority race represents in population to the actual population in the city or trade area concerned))~~ percentage of the minority race and female (minority and nonminority) labor force in the program sponsor's labor market area, based on current census figures issued by the office of financial management with the ultimate goal of obtaining the proportionate ratio of representation in the total program membership.

Where minimum standards have been set for entering upon any such apprenticeship program, this woman and racial minority ((~~race~~)) representation shall be filled when women and racial minority ((~~race~~)) applicants have met such minimum standards and irrespective of individual ranking among all applicants seeking to enter the program: PROVIDED, That nothing in RCW 49.04.100 through 49.04.130 will affect the total number of entrants into the apprenticeship program or modify the dates of entrance both as established by the joint apprenticeship committee. Racial minority ((~~race~~)) for the purposes of RCW (~~(49.04.100 through)~~) 49.04.130 shall include (~~((Blacks, Mexican Americans or Spanish Americans, Orientals and Indians or Filipinos))~~) African Americans, Asian Americans, Hispanic Americans, American Indians, Filipinos, and all other racial minority groups.

Sec. 2. Section 3, chapter 183, Laws of 1969 ex. sess. and RCW 49.04.110 are each amended to read as follows:

When it shall appear to the department of labor and industries that any apprenticeship program referred to in RCW 49.04.100 has failed to comply with the woman or racial minority ((~~race~~)) representation requirement hereinabove in such section referred to by January 1, 1970, which fact shall be determined by reports the department may request or in such other manner as it shall see fit, then the same shall be deemed prima facie evidence of noncompliance with RCW 49.04.100 through 49.04.130 and thereafter no state funds or facilities shall be expended upon such program: PROVIDED, That prior to such withdrawal of funds evidence shall be received and state funds or facilities shall not be denied if there is a showing of a genuine effort to comply with the provisions of RCW 49.04.100 through 49.04.130 as to entrance of ((~~minority races~~)) women and racial minorities into the program. The director shall notify the appropriate federal authorities if there is noncompliance with the woman and racial minority ((~~race~~)) representation qualification under any apprenticeship program as provided for in RCW 49.04.100 through 49.04.130.

Sec. 3. Section 4, chapter 183, Laws of 1969 ex. sess. and RCW 49.04.120 are each amended to read as follows:

Every community college, vocational school, or high school carrying on a program of vocational education shall make every effort to enlist woman and racial minority ((~~race~~)) representation in the apprenticeship programs within the state and are authorized to carry out such purpose in such ways as they shall see fit.

Sec. 4. Section 5, chapter 183, Laws of 1969 ex. sess. and RCW 49.04.130 are each amended to read as follows:

Every employer and employee organization as well as the apprenticeship council and local and state apprenticeship committees and vocational schools shall make every effort to enlist woman and racial minority ((~~race~~))

representation in the apprenticeship programs of the state and shall be aided therein by the department of labor and industries insofar as such department may be able to so do without undue interference with its other powers and duties. In addition, the legislature, in fulfillment of the public welfare, mandates those involved in apprenticeship training with the responsibility of making every effort to see that woman and racial minority ((race)) representatives in such programs pursue the same to a successful conclusion ((thereof)).

Sec. 5. Section 1, chapter 183, Laws of 1969 ex. sess. (uncodified) is amended to read as follows:

It is the policy of the legislature and the purpose of this act to provide every citizen in this state a reasonable opportunity to enjoy employment and other associated rights, benefits, privileges, and to help ((citizens of minority races)) women and racial minorities realize in a greater measure the goals upon which this nation and this state were founded. All the provisions of this act shall be liberally construed to achieve these ends, and administered and enforced with a view to carry out the above declaration of policy.

Passed the Senate March 5, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 73

[Substitute Senate Bill No. 6668]

CRIME VICTIM'S COMPENSATION—ELIGIBILITY

AN ACT Relating to eligibility for crime victims' compensation; amending RCW 7.68-.020; and providing an effective date.

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

Sec. 1. Section 2, chapter 122, Laws of 1973 1st ex. sess. as last amended by section 6, chapter 281, Laws of 1987 and RCW 7.68.020 are each amended to read as follows:

The following words and phrases as used in this chapter have the meanings set forth in this section unless the context otherwise requires.

(1) "Department" means the department of labor and industries.

(2) "Criminal act" means an act committed or attempted in this state which is punishable as a felony or gross misdemeanor under the laws of this state, or an act committed outside the state of Washington against a resident of the state of Washington which would be compensable had it occurred inside this state; and the crime occurred in a state which does not have a crime victims compensation program, for which the victim is eligible as set forth in the Washington compensation law except as follows:

(a) The operation of a motor vehicle, motorcycle, train, boat, or aircraft in violation of law does not constitute a "criminal act" unless:

(i) The injury or death was intentionally inflicted;

(ii) The operation thereof was part of the commission of another non-vehicular criminal act as defined in this section; (or)

(iii) The death or injury was the result of the operation of a motor vehicle after July 24, 1983, and a preponderance of the evidence establishes that the death was the result of vehicular homicide under RCW 46.61.520, or a conviction of vehicular assault under RCW 46.61.522, has been obtained: PROVIDED, That in cases where a probable criminal defendant has died in perpetration of vehicular assault or, because of physical or mental infirmity or disability the perpetrator is incapable of standing trial for vehicular assault, the department may, by a preponderance of the evidence, establish that a vehicular assault had been committed and authorize benefits; or

(iv) Injury or death caused by a driver in violation of RCW 46.61.502;

(b) Neither an acquittal in a criminal prosecution nor the absence of any such prosecution is admissible in any claim or proceeding under this chapter as evidence of the noncriminal character of the acts giving rise to such claim or proceeding, except as provided for in subsection (2)(a)(iii) of this section;

(c) Evidence of a criminal conviction arising from acts which are the basis for a claim or proceeding under this chapter is admissible in such claim or proceeding for the limited purpose of proving the criminal character of the acts; and

(d) Acts which, but for the insanity or mental irresponsibility of the perpetrator, would constitute criminal conduct are deemed to be criminal conduct within the meaning of this chapter.

(3) "Victim" means a person who suffers bodily injury or death as a proximate result of a criminal act of another person, the victim's own good faith and reasonable effort to prevent a criminal act, or his good faith effort to apprehend a person reasonably suspected of engaging in a criminal act. For the purposes of receiving benefits pursuant to this chapter, "victim" is interchangeable with "employee" or "workman" as defined in chapter 51.08 RCW as now or hereafter amended.

(4) "Child," "accredited school," "dependent," "beneficiary," "average monthly wage," "director," "injury," "invalid," "permanent partial disability," and "permanent total disability" have the meanings assigned to them in chapter 51.08 RCW as now or hereafter amended.

(5) "Gainfully employed" means engaging on a regular and continuous basis in a lawful activity from which a person derives a livelihood.

(6) "Private insurance" means any source of recompense provided by contract available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

(7) "Public insurance" means any source of recompense provided by statute, state or federal, available as a result of the claimed injury or death at the time of such injury or death, or which becomes available any time thereafter.

NEW SECTION. Sec. 2. This act shall take effect October 1, 1990.

Passed the Senate March 6, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 74

[House Bill No. 2959]

HEALTH INSURANCE FOR STUDENTS PARTICIPATING IN EXTRA CURRICULAR ACTIVITIES

AN ACT Relating to health insurance for students participating in extracurricular activities; and amending RCW 28A.58.420.

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

Sec. 1. Section 28A.58.420, chapter 223, Laws of 1969 ex. sess. as last amended by section 16, chapter 107, Laws of 1988 and RCW 28A.58.420 are each amended to read as follows:

(1) The board of directors of any of the state's school districts may make available liability, life, health, health care, accident, disability and salary protection or insurance or any one of, or a combination of the enumerated types of insurance, or any other type of insurance or protection, for the members of the boards of directors, the students, and employees of the school district, and their dependents. Such coverage may be provided by contracts with private carriers, with the state health care authority after July 1, 1990, pursuant to the approval of the authority administrator, or through self-insurance or self-funding pursuant to chapter 48.62 RCW, or in any other manner authorized by law.

(2) Whenever funds shall be available for these purposes the board of directors of the school district may contribute all or a part of the cost of such protection or insurance for the employees of their respective school districts and their dependents. The premiums on such liability insurance shall be borne by the school district. The premiums due on such protection or insurance shall be borne by the assenting school board member or student: **PROVIDED**, That the school district may contribute all or part of the costs, including the premiums, of life, health, health care, accident or disability insurance which shall be offered to all students participating in interschool activities on the behalf of or as representative of their school or school district. The school district board of directors may require any student participating in extracurricular interschool activities to, as a condition

of participation, document evidence of insurance or purchase insurance that will provide adequate coverage, as determined by the school district board of directors, for medical expenses incurred as a result of injury sustained while participating in the extracurricular activity. In establishing such a requirement, the district shall adopt regulations for waiving or reducing the premiums of such coverage as may be offered through the school district to students participating in extracurricular activities, for those students whose families, by reason of their low income, would have difficulty paying the entire amount of such insurance premiums. The district board shall adopt regulations for waiving or reducing the insurance coverage requirements for low-income students in order to assure such students are not prohibited from participating in extracurricular interschool activities. All contracts for insurance or protection written to take advantage of the provisions of this section shall provide that the beneficiaries of such contracts may utilize on an equal participation basis the services of those practitioners licensed pursuant to chapters 18.22, 18.25, 18.53, 18.57 and 18.71 RCW.

Passed the House March 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 75

[Senate Bill No. 6673]

STATE-OWNED VEHICLES—OPERATION OF—QUALIFICATIONS

AN ACT Relating to qualifications for operating state-owned vehicles; and amending RCW 43.19.554.

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

Sec. 1. Section 3, chapter 57, Laws of 1989 and RCW 43.19.554 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 (~~valid Washington state~~) 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.

Passed the Senate February 8, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 76

[Substitute Senate Bill No. 6589]

TITLE INSURERS—AUTHORITY TO TRANSACT OUT-OF-COUNTY BUSINESS—CONDITIONS

AN ACT Relating to title insurers; and amending RCW 48.29.020 and 48.29.040.

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

Sec. 1. Section .29.02, chapter 79, Laws of 1947 as amended by section 12, chapter 86, Laws of 1955 and RCW 48.29.020 are each amended to read as follows:

A title insurer shall not be entitled to have a certificate of authority unless it otherwise qualifies therefor, nor unless:

- (1) It is a stock corporation.
- (2) It owns or leases and maintains a complete set of tract indexes of the county in which its principal office within this state is located.
- (3) It deposits and keeps on deposit with the commissioner a guaranty fund in amount as set forth in RCW 48.29.030 and comprised of cash or public obligations as specified in RCW 48.13.040.

Sec. 2. Section .29.04, chapter 79, Laws of 1947 as amended by section 17, chapter 193, Laws of 1957 and RCW 48.29.040 are each amended to read as follows:

(1) Subject to the deposit requirements of RCW 48.29.030, a title insurer having its principal offices in one county may be authorized to transact business in only such additional counties as to which it owns or leases and maintains, or has a duly authorized agent that owns or leases and maintains, a complete set of tract indexes.

(2) A title insurer not authorized to transact business in a certain county may purchase a title policy on property located therein from another title insurer which is so authorized in that county. The first title insurer may thereafter issue its own policy of title insurance to the owner of such property. The first title insurer may combine the insurance on the title of such property in a single policy which also insures the title of one or more other pieces of property. The first title insurer must pay the full premium based on filed rates for the policy, and must charge the precise same amount to its

own customer for the insurance as to the title of such property. A title insurer using the authority granted by this subsection in a transaction must so notify its customer.

Passed the Senate February 8, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 77

[House Bill No. 2265]

EXCELLENCE IN EDUCATION AWARD PROGRAM—INCLUSION OF CLASSIFIED STAFF

AN ACT Relating to the award for excellence in education program; and amending RCW 28A.03.523.

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

Sec. 1. Section 2, chapter 147, Laws of 1986 as last amended by section 1, chapter 75, Laws of 1989 and RCW 28A.03.523 are each amended to read as follows:

(1) The superintendent of public instruction shall establish an annual award program for excellence in education to recognize teachers, principals, administrators, school district superintendents, and school boards for their leadership, contributions, and commitment to education. The program shall recognize annually:

(a) Five teachers from each congressional district of the state. One individual must be an elementary level teacher, one must be a junior high or middle school level teacher, and one must be a secondary level teacher. Teachers shall include educational staff associates;

(b) Five principals or administrators from the state;

(c) One school district superintendent from the state; ~~((and))~~

(d) One school district board of directors from the state; and

(e) Three classified staff from each congressional district of the state.

Not more than three teachers, three classified staff, and three principals or administrators from each congressional district and one superintendent and one school board from the state may be recognized and receive awards in any school year.

(2) The awards for teachers, classified staff, and principals or administrators shall include certificates presented by the governor and the superintendent of public instruction at a public ceremony or ceremonies in appropriate locations.

(3) In addition to certificates under subsection (2) of this section, awards for teachers and principals or administrators shall include:

(a) A waiver of tuition and fees under RCW 28B.15.547 and a stipend not to exceed one thousand dollars to cover costs incurred in taking courses

for which the tuition and fees have been waived under this subsection and RCW 28B.15.547. The stipend shall not be considered compensation for the purposes of RCW 28A.58.0951; or

(b) Teachers and principals or administrators, at their discretion, may elect to forego the waiver of tuition and fees and the stipend under subsection (3) of this section and apply for a grant not to exceed one thousand dollars, which grant shall be awarded under the provisions of RCW 28A.03.535. Within one year of receiving the award for excellence in education, teachers and principals or administrators shall notify the superintendent of public instruction in writing of their decision to apply for a grant or to receive the waiver of tuition and fees and the stipend under subsection (3) of this section.

Passed the House February 6, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 78

[House Bill No. 1957]

PUGET SOUND FERRY OPERATIONS ACCOUNT—REPEAL

AN ACT Relating to the Puget Sound ferry operations account; and repealing RCW 47.60.540.

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

NEW SECTION. Sec. 1. Section 4, chapter 24, Laws of 1972 ex. sess., section 334, chapter 7, Laws of 1984 and RCW 47.60.540 are each repealed.

Passed the House January 22, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 79

[Senate Bill No. 6392]

WILLS—EXECUTION—REQUIREMENTS

AN ACT Relating to wills; and amending RCW 11.12.020.

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

Sec. 1. Section 11.12.020, chapter 145, Laws of 1965 and RCW 11.12.020 are each amended to read as follows:

(1) Every will shall be in writing signed by the testator or by some other person under ((his)) the testator's direction in ((his)) the testator's

presence, and shall be attested by two or more competent witnesses, by subscribing their names to the will, or by signing an affidavit that complies with RCW 11.20.020(2), while in the presence of the testator ((by his)) and at the testator's direction or request: PROVIDED, That a last will and testament, executed ((without the state;)) in the mode prescribed by the law((; either)) of the place where executed or of the testator's domicile, either at the time of the will's execution or at the time of the testator's death, shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the laws of this state.

(2) This section shall be applied to all wills, whenever executed, including those subject to pending probate proceedings.

Passed the Senate February 6, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 80

[House Bill No. 2503]

INVESTMENT OF INDUSTRIAL INSURANCE FUNDS

AN ACT Relating to the investment of industrial insurance funds; amending RCW 51.44.100; and declaring an emergency.

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

Sec. 1. Section 51.44.100, chapter 23, Laws of 1961 as last amended by section 41, chapter 3, Laws of 1981 and RCW 51.44.100 are each amended to read as follows:

Whenever, in the judgment of the state investment board, there shall be in the accident fund, medical aid fund, ~~((or in the))~~ reserve fund, or the supplemental pension fund, funds in excess of that amount deemed by the state investment board to be sufficient to meet the current expenditures properly payable therefrom, the state investment board may invest and re-invest such excess funds in the manner prescribed by RCW 43.84.150, and not otherwise.

The state investment board may give consideration to the investment of excess funds in federally insured student loans made to persons in vocational training or retraining or reeducation programs. The state investment board may make such investments by purchasing from savings and loan associations, commercial banks, mutual savings banks, credit unions and other institutions authorized to be lenders under the federally insured student loan act, organized under federal or state law and operating in this state loans made by such institutions to residents of the state of Washington particularly for the purpose of vocational training or reeducation: PROVIDED, That the state investment board shall purchase only that portion of any loan

which is guaranteed or insured by the United States of America, or by any agency or instrumentality of the United States of America: PROVIDED FURTHER, That the state investment board is authorized to enter into contracts with such savings and loan associations, commercial banks, mutual savings banks, credit unions, and other institutions authorized to be lenders under the federally insured student loan act to service loans purchased pursuant to this section at an agreed upon contract price.

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

Passed the House March 3, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 81

[Senate Bill No. 6470]

CONSTRUCTION LIENS—INFORMATIONAL MATERIAL ON

AN ACT Relating to construction liens; and amending RCW 60.04.250.

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

Sec. 1. Section 1, chapter 270, Laws of 1988 and RCW 60.04.250 are each amended to read as follows:

The department of labor and industries shall prepare ((a)) master documents that provide((s)) informational material about construction lien laws and available safeguards against real property lien claims. The material shall include methods of protection against lien claims, including obtaining lien release documents, performance bonds, joint payee checks, the opportunity to require contractor disclosure of all potential lien claimants as a condition of payment, and lender supervision under RCW 60.04.200 and 60.04.210. The material shall also include sources of further information, including the department of labor and industries and the office of the attorney general.

Passed the Senate February 7, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 82

[Substitute Senate Bill No. 6575]

NUCLEAR OPERATIONS—LIABILITY COVERAGE REQUIREMENTS

AN ACT Relating to liability requirements for nuclear operations; amending RCW 43.200.200, 43.200.210, and 70.98.095; adding a new section to chapter 70.98 RCW; and creating a new section.

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

Sec. 1. Section 1, chapter 191, Laws of 1986 and RCW 43.200.200 are each amended to read as follows:

(1) The director of the department of ecology shall periodically review the potential for bodily injury and property damage in the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials under licenses or permits issued by the state.

~~(2) ((The director shall, upon the completion of each review, determine by rule the minimum amount of liability coverage that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials.~~

~~(3))~~ Except as otherwise provided in subsection (7) of this section, the director shall require ((the maximum amount of)) each permit holder to maintain liability coverage ((available from private sources, including)) in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials. The liability coverage may be in the form of insurance, cash, surety bonds, corporate guarantees, and other acceptable instruments((, unless the director determines that a lesser amount is adequate to protect the state and its citizens pursuant to this section)).

~~((4))~~ (3) In making the determination of the appropriate level of liability coverage, the director shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;

(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant; and

(d) The legal defense cost, if any, that will be paid from the required liability coverage amount.

~~((5))~~ (4) The director may establish different levels of required liability coverage for various classes of ~~((license or))~~ permit holders.

~~((6))~~ (5) The director shall establish by rule the instruments or mechanisms by which a person may demonstrate liability coverage as required by RCW 43.200.210 ~~((and 70.98.095))~~. Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.

~~((7))~~ (6) The director shall complete the first review and determination, and report the results to the legislature, by December 1, 1987. At least every five years thereafter, the director shall conduct a new review and determination and report its results to the legislature.

(7)(a) The director by rule may exempt from the requirement to provide liability coverage a class of permit holders if the director determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.

(b) The director may exempt from the requirement to provide liability coverage an individual permit holder if the director determines that the cost of obtaining that coverage for that permit holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.

Sec. 2. Section 2, chapter 191, Laws of 1986 and RCW 43.200.210 are each amended to read as follows:

(1)(a) The department of ecology shall require that any person who holds or applies for a ~~((license or))~~ permit under this chapter ~~((or))~~ indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations and activities for which the person holds the license or permit, and any necessary or incidental operations~~((, and))~~.

(b) Except for a permit holder not required to maintain liability insurance coverage under RCW 43.200.200(7), the department shall require any person who holds or applies for a permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the director of the department of ecology pursuant to RCW 43.200.200.

(2) The department of ecology shall suspend the license ~~((or permit))~~ of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The ~~((license or))~~ permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The department of ecology shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 3. A new section is added to chapter 70.98 RCW to read as follows:

(1) Except as otherwise provided in subsection (5) of this section, the secretary shall require each permit or license holder to maintain liability coverage in an amount that is adequate to protect the state and its citizens from all claims, suits, losses, damages, or expenses on account of injuries to persons and property damage arising or growing out of the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials. The liability coverage may be in the form of insurance, cash, surety bonds, corporate guarantees, and other acceptable instruments.

(2) In making the determination of the appropriate level of liability coverage, the secretary shall consider:

(a) The nature and purpose of the activity and its potential for injury and damages to or claims against the state and its citizens;

(b) The current and cumulative manifested volume and radioactivity of material being packaged, transported, buried, or otherwise handled;

(c) The location where the material is being packaged, transported, buried, or otherwise handled, including the proximity to the general public and geographic features such as geology and hydrology, if relevant;

(d) The report prepared by the department of ecology pursuant to RCW 43.200.200; and

(e) The legal defense cost, if any, that will be paid from the required liability coverage amount.

(3) The secretary may establish different levels of required liability coverage for various classes of permit or license holders.

(4) The secretary shall establish by rule the instruments or mechanisms by which a person may demonstrate liability coverage as required by RCW 70.98.095. Any instrument or mechanism approved as an alternative to liability insurance shall provide the state and its citizens with a level of financial protection at least as great as would be provided by liability insurance.

(5)(a) The secretary by rule may exempt from the requirement to provide liability coverage a class of permit or license holders if the secretary determines that the exemption of that class will not pose a significant risk to persons or property and will not pose substantial financial risk to the state.

(b) The secretary may exempt from the requirement to provide liability coverage an individual permit or license holder if the secretary determines that the cost of obtaining that coverage for that license or permit or license holder would impose a substantial financial hardship on the person and that failure to maintain the coverage will not pose a significant risk to persons or property and will not pose a substantial financial risk to the state.

Sec. 4. Section 3, chapter 191, Laws of 1986 and RCW 70.98.095 are each amended to read as follows:

(1)(a) The radiation control agency shall require that any person who holds or applies for a license or permit under this chapter (~~((a))~~) indemnify and hold harmless the state from claims, suits, damages, or expenses on account of injuries to or death of persons and property, arising or growing out of any operations or activities for which the person holds the license or permit, and any necessary or incidental operations(~~((and))~~).

(b) Except for a license or permit holder who the secretary has exempted from maintaining liability coverage pursuant to section 3(5) of this act, the radiation control agency shall require any person who holds or applies for a license or permit under this chapter to demonstrate that the person has and maintains liability coverage for the operations for which the state has been indemnified and held harmless pursuant to this section. The agency shall require coverage in an amount determined by the ~~((director of the department of ecology pursuant to RCW 43.200.200))~~ secretary pursuant to section 3 of this act.

(2) The radiation control agency shall suspend the license or permit of any person required by this section to hold and maintain liability coverage who fails to demonstrate compliance with this section. The license or permit shall not be reinstated until the person demonstrates compliance with this section.

(3) The radiation control agency shall require (a) that any person required to maintain liability coverage maintain with the agency current copies of any insurance policies, certificates of insurance, or any other documents used to comply with this section, (b) that the agency be notified of any changes in the insurance coverage or financial condition of the person, and (c) that the state be named as an insured party on any insurance policy used to comply with this section.

NEW SECTION. Sec. 5. The department of ecology and the department of health shall study and report to the legislature on methods by which persons who hold licenses or permits for the packaging, shipping, transporting, treatment, storage, and disposal of commercial low-level radioactive materials under licenses or permits issued by the state and who are unable to obtain liability coverage required by the state may be provided with that coverage. The study shall be completed and the report submitted

to the energy and utilities committees of the senate and the house of representatives not later than December 1, 1990.

Passed the Senate March 5, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 83

[Substitute House Bill No. 2524]

BOARD OF PHARMACY—EXTENSION—REVISION OF DUTIES

AN ACT Relating to the board of pharmacy; amending RCW 18.64.005; creating a new section; and repealing RCW 43.131.249 and 43.131.250.

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

Sec. 1. Section 3, chapter 98, Laws of 1935 as last amended by section 409, chapter 9, Laws of 1989 1st ex. sess. and RCW 18.64.005 are each amended to read as follows:

STATE BOARD OF PHARMACY—POWERS AND DUTIES.

The board shall:

(1) Regulate the practice of pharmacy and enforce all laws placed under its jurisdiction;

(2) Prepare or determine the nature of, and supervise the grading of, examinations for applicants for pharmacists' licenses;

(3) Establish the qualifications for licensure of pharmacists or pharmacy interns;

(4) Conduct hearings for the revocation or suspension of licenses, permits, registrations, certificates, or any other authority to practice granted by the board, which hearings may also be conducted by an administrative law judge appointed under chapter 34.12 RCW;

(5) Issue subpoenas and administer oaths in connection with any hearing, or disciplinary proceeding held under this chapter or any other chapter assigned to the board;

(6) Assist the regularly constituted enforcement agencies of this state in enforcing all laws pertaining to drugs, controlled substances, and the practice of pharmacy, or any other laws or rules under its jurisdiction;

(7) Promulgate rules for the dispensing, distribution, wholesaling, and manufacturing of drugs and devices and the practice of pharmacy for the protection and promotion of the public health, safety, and welfare. Violation of any such rules shall constitute grounds for refusal, suspension, or revocation of licenses or any other authority to practice issued by the board;

(8) Adopt rules establishing and governing continuing education requirements for pharmacists and other licensees applying for renewal of licenses under this chapter;

(9) Be immune, collectively and individually, from suit in any action, civil or criminal, based upon any disciplinary proceedings or other official acts performed as members of such board. Such immunity shall apply to employees of the department when acting in the course of disciplinary proceedings;

~~(10) ((Establish an interdepartmental coordinating committee on drug misuse, diversion, and abuse, composed of one member from each caucus of the house of representatives and senate, the superintendent of public instruction, the secretary of health, the executive secretary of the criminal justice training commission, the chief of the Washington state patrol, the secretary of social and health services, director of the traffic safety commission, representatives of prescribing, delivering, and dispensing health care practitioner boards, the attorney general, the director of the department of labor and industries, a representative of local law enforcement agencies, and the executive officer of the board of pharmacy, or their designees. The committee shall meet at least twice annually at the call of the executive officer of the board of pharmacy who shall serve as chairperson of the committee. The committee shall advise the board of pharmacy in all matters related to its powers and duties delineated in subsections (11), (12), (13), (14) and (15) of this section, and shall report to the legislature each biennium on the results of its and the board's activity under those subsections;~~

~~(11) Provide for the coordination and exchange of information on state programs relating to drug misuse, diversion, and abuse, and act as a permanent liaison among the departments and agencies engaged in activities concerning the legal and illegal use of drugs;~~

~~(12)) Suggest strategies for preventing, reducing, and eliminating drug misuse, diversion, and abuse, including professional and public education, and treatment of persons misusing and abusing drugs;~~

~~((13)) (11) Conduct or encourage educational programs to be conducted to prevent the misuse, diversion, and abuse of drugs for health care practitioners and licensed or certified health care facilities;~~

~~((14)) (12) Monitor trends of drug misuse, diversion, and abuse and make periodic reports to disciplinary boards of licensed health care practitioners and education, treatment, and appropriate law enforcement agencies regarding these trends;~~

~~((15)) (13) Enter into written agreements with all other state and federal agencies with any responsibility for controlling drug misuse, diversion, or abuse and with health maintenance organizations, health care service contractors, and health care providers to assist and promote coordination of agencies responsible for ensuring compliance with controlled substances laws and to monitor observance of these laws and cooperation between these agencies. The department of social and health services, the~~

department of labor and industries, and any other state agency including licensure disciplinary boards, shall refer all apparent instances of over-prescribing by practitioners and all apparent instances of legend drug overuse to the department. The department shall also encourage such referral by health maintenance organizations, health service contractors, and health care providers.

NEW SECTION. Sec. 2. The following acts or parts of acts are each repealed:

(1) Section 3, chapter 223, Laws of 1982, section 15, chapter 153, Laws of 1984 and RCW 43.131.249; and

(2) Section 7, chapter 223, Laws of 1982, section 16, chapter 153, Laws of 1984 and RCW 43.131.250.

NEW SECTION. Sec. 3. Section captions as used in this act do not constitute any part of the law.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 84

[Substitute House Bill No. 2576]

DEPARTMENT OF WILDLIFE—HUNTING AND FISHING LICENSES

AN ACT Relating to the department of wildlife; making technical revisions and updating statutes; amending RCW 77.04.010, 77.04.055, 77.12.655, 77.32.320, 77.32.340, 77.32.350, and 77.32.360; and repealing RCW 77.12.660.

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

Sec. 1. Section 77.04.010, chapter 36, Laws of 1955 as amended by section 2, chapter 78, Laws of 1980 and RCW 77.04.010 are each amended to read as follows:

This title is known and may be cited as "~~((Game))~~ Wildlife Code of the State of Washington."

Sec. 2. Section 7, chapter 506, Laws of 1987 and RCW 77.04.055 are each amended to read as follows:

(1) In addition to any other duties and responsibilities, the commission shall establish, and periodically review with the governor and the legislature, the department's basic goals and objectives to preserve, protect, and perpetuate wildlife and wildlife habitat. The commission shall maximize hunting and fishing recreational opportunities.

~~(2) ((By November 1, 1987, the department shall prepare and submit to the office of financial management the comprehensive and detailed departmental analyses and management plans specified in subsection (3) of~~

~~this section. The governor shall submit a spending plan to the appropriate legislative committees by December 31, 1987.~~

~~(3) The comprehensive and detailed analyses and management plans shall include, but not be limited to:~~

~~(a) An analysis of each unique functional element, prioritized within each of the subprograms of the department, as to the element's purpose and role in the subprogram or agency mission, together with expenditures and staffing as of February 28, 1987, and a separate analysis, prioritized within the subprogram, of any revision in expenditure and staffing above the element's level as of February 28, 1987. However, any revision in expenditure or staffing will require specific justification, particularly as to fund source for the expenditure;~~

~~(b) An analysis of all hunting and fishing licenses and tags, stamps, or permits issued and the effect of increases or reductions of these fees;~~

~~(c) An analysis of the agency's management, organization, and productivity and a detailed plan for any revisions or improvements, if required;~~

~~(d) An analysis of the land management practices on department-owned and managed lands and a detailed plan for any improvements; and~~

~~(e) An analysis of the department's relationship with landowners, including wildlife damage to agricultural crops and a detailed plan for any improvements.~~

~~(4) The governor may also direct the use of personnel from the office of financial management and other state agencies to assist and participate as the governor deems necessary in any or all parts of the analyses or plans required in this section.~~

~~(5) The director of financial management shall inform the house of representatives and the senate bimonthly of the progress of the analyses and plans required in subsection (2) of this section.~~

~~(6) The analyses and plans, together with any supporting data, shall be made available to the natural resources and ways and means committees of the senate and house of representatives upon receipt by the office of financial management.~~

~~(7)) The commission shall establish hunting, trapping, and fishing seasons and prescribe the time, place, manner, and methods that may be used to harvest or enjoy wildlife.~~

~~((8) The commission shall prepare and submit to the governor and appropriate legislative committees by October 1, 1988, an analysis of the state's wildlife and wildlife recreation needs, looking at innovative management methods and alternatives to increased agency revenues, and make recommendations as to how those needs could be addressed.~~

~~(9) By June 30, 1989, the wildlife commission shall prepare a recommendation determining the fees that shall be charged for hunting and fishing licenses. Prior to preparing any recommendations, the commission shall hold state-wide hearings to learn concerns of all citizens. The commission~~

~~shall consider the needs of low-income citizens, veterans of the armed services, the disabled, senior citizens, and juveniles. If the commission recommends a change in the license fees or residency requirements, the commission shall report to the legislature at its next regular session, the reasons for recommending the change.))~~

Sec. 3. Section 3, chapter 239, Laws of 1984 and RCW 77.12.655 are each amended to read as follows:

The department, in accordance with chapter 34.05 RCW, shall adopt and enforce necessary rules defining the extent and boundaries of habitat buffer zones for bald eagles. Rules shall take into account the need for variation of the extent of the zone from case to case, and the need for protection of bald eagles. The rules shall also establish guidelines and priorities for purchase or trade and establishment of conservation easements and/or leases to protect such designated properties. The department shall also adopt rules to provide adequate notice to property owners of their options under RCW 77.12.650 through ~~((77.12.660))~~ 77.12.655.

Sec. 4. Section 8, chapter 310, Laws of 1981 as amended by section 87, chapter 506, Laws of 1987 and RCW 77.32.320 are each amended to read as follows:

(1) In addition to a basic hunting license, a separate transport tag is required to hunt deer, elk, bear, cougar, sheep, mountain goat, moose, or wild turkey.

(2) A transport tag may only be obtained subsequent to the purchase of a valid hunting license and must have permanently affixed to it the hunting license number ~~((and the supplemental stamp appropriate for the species being hunted))~~.

(3) Persons who kill deer, elk, bear, cougar, mountain goat, sheep, moose, or wild turkey shall immediately validate and attach their own transport tag to the carcass as provided by rule of the director.

(4) Transport tags required by this section expire on March 31st following the date of issuance.

Sec. 5. Section 11, chapter 310, Laws of 1981 as last amended by section 8, chapter 464, Laws of 1985 and RCW 77.32.340 are each amended to read as follows:

~~((A supplemental stamp is required to hunt deer, elk, bear, cougar, sheep, mountain goat, moose, or wild turkey.))~~ Fees for transport tags shall be as follows:

(1) The fee for a resident deer ~~((stamp))~~ tag is fifteen dollars. The fee for a nonresident deer ~~((stamp))~~ tag is fifty dollars.

(2) The fee for a resident elk ~~((stamp))~~ tag is twenty dollars. The fee for a nonresident elk ~~((stamp))~~ tag is one hundred dollars.

(3) The fee for a resident bear ~~((stamp))~~ tag is fifteen dollars. The fee for a nonresident bear ~~((stamp))~~ tag is one hundred fifty dollars.

(4) The fee for a resident cougar ((stamp)) tag is twenty dollars. The fee for a nonresident cougar ((stamp)) tag is three hundred dollars.

(5) The fee for a mountain goat ((stamp)) tag is fifty dollars for residents and one hundred fifty dollars for nonresidents. The fee shall be paid at the time of application. Applicants who are not selected for a mountain goat special season permit shall receive a refund of this fee, less five dollars.

(6) The fee for a sheep ((stamp)) tag is seventy-five dollars for residents and three hundred dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a sheep special season permit shall receive a refund of this fee, less five dollars.

(7) The fee for a moose ((stamp)) tag is one hundred fifty dollars for residents and three hundred dollars for nonresidents and shall be paid at the time of application. Applicants who are not selected for a moose special season permit shall receive a refund of this fee, less five dollars.

(8) The fee for a wild turkey ((stamp)) tag is fifteen dollars.

~~((9) To be valid, supplemental stamps required under this section shall be permanently affixed to the transport tag at the time of purchase and the stamp numbers shall be legibly transferred to the hunting license.~~

~~((10) Supplemental stamps required under this section expire on March 31st following the date of issuance.))~~

Sec. 6. Section 105, chapter 506, Laws of 1987 as amended by section 1, chapter 365, Laws of 1989 and RCW 77.32.350 are each amended to read as follows:

In addition to a basic hunting license, a supplemental license, permit, or stamp is required to hunt for quail, partridge, pheasant, or migratory waterfowl, to hunt with a raptor, or to hunt wild animals with a dog.

(1) A hound ((stamp)) permit is required to hunt wild animals, except rabbits and hares, with a dog. The fee for this ((stamp)) permit is ten dollars.

(2) An eastern Washington upland game bird ((stamp)) permit is required to hunt for quail, partridge, and pheasant in ~~((areas designated by rule of the commission))~~ eastern Washington. The fee for this ((stamp)) permit is eight dollars.

(3) A western Washington upland game bird permit is required to hunt for quail, partridge, and pheasant in western Washington. The fee for this permit is fifteen dollars.

(4) A falconry license is required to possess or hunt with a ~~((falcon))~~ raptor, including seasons established exclusively for hunting in that manner. The fee for this license is thirty dollars.

~~((4) To be valid, stamps required under this section shall be permanently affixed to the licensee's appropriate hunting or fishing license.))~~

(5) A migratory waterfowl stamp affixed to a basic hunting license is required for all persons sixteen years of age or older to hunt migratory waterfowl. The fee for the stamp is five dollars.

(6) The migratory waterfowl stamp shall be validated by the signature of the licensee written across the face of the stamp.

(7) The migratory waterfowl stamps required by this section expire on March 31st following the date of issuance ((except for hound stamps, which expire December 31st following the date of issuance)).

Sec. 7. Section 13, chapter 310, Laws of 1981 as last amended by section 88, chapter 506, Laws of 1987 and RCW 77.32.360 are each amended to read as follows:

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

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

(3) The steelhead ((punchcards)) catch record card required under this section expires April 30th following the date of issuance.

(4) Each person who returns a steelhead ~~((punchcard))~~ catch record card to an authorized license dealer by June 1 following the period for which it was issued shall be given a credit equal to five dollars towards that day's purchase of any license, permit, transport tag, ~~((punchcard))~~ catch record card, or stamp required by this chapter. This subsection does not apply to annual steelhead catch record cards for persons under the age of fifteen.

(5) Persons under the age of fifteen may purchase an annual steelhead catch record card for five dollars. The five-dollar catch record card entitles the holder to retain no more than five steelhead. After retaining five steelhead, a new catch record card may be purchased.

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

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

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

NEW SECTION. Sec. 8. Section 4, chapter 239, Laws of 1984 and RCW 77.12.660 are each repealed.

Passed the House March 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 85

[Senate Bill No. 5487]

REAL ESTATE LICENSEES—DISCLOSURE REQUIREMENTS

AN ACT Relating to full disclosure requirements of real estate licensees; and amending RCW 18.85.230.

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

Sec. 1. Section 5, chapter 205, Laws of 1988 and RCW 18.85.230 are each amended to read as follows:

The director may, upon his or her own motion, and shall upon verified complaint in writing by any person, investigate the actions of any person engaged in the business or acting in the capacity of a real estate broker, associate real estate broker, or real estate salesperson, regardless of whether the transaction was for his or her own account or in his or her capacity as broker, associate real estate broker, or real estate salesperson, and may impose any one or more of the following sanctions: Suspend or revoke, levy a fine not to exceed one thousand dollars for each offense, require the completion of a course in a selected area of real estate practice relevant to the section of this chapter or rule violated, or deny the license of any holder or applicant who is guilty of:

(1) Obtaining a license by means of fraud, misrepresentation, concealment, or through the mistake or inadvertence of the director;

(2) Violating any of the provisions of this chapter or any lawful rules or regulations made by the director pursuant thereto or violating a provision of chapter 64.36, 19.105, or 58.19 RCW or the rules adopted under those chapters;

(3) Being convicted in a court of competent jurisdiction of this or any other state, or federal court, of forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense or offenses: PROVIDED, That for the purposes of this section being convicted shall include all instances in which a plea of guilty or nolo contendere is the basis for the conviction, and all proceedings in which the sentence has been deferred or suspended;

(4) Making, printing, publishing, distributing, or causing, authorizing, or knowingly permitting the making, printing, publication or distribution of false statements, descriptions or promises of such character as to reasonably induce any person to act thereon, if the statements, descriptions or promises purport to be made or to be performed by either the licensee or his or her principal and the licensee then knew or, by the exercise of reasonable care and inquiry, could have known, of the falsity of the statements, descriptions or promises;

(5) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme or device whereby any other person lawfully relies upon the word, representation or conduct of the licensee;

(6) Accepting the services of, or continuing in a representative capacity, any associate broker or salesperson who has not been granted a license, or after his or her license has been revoked or during a suspension thereof;

(7) Conversion of any money, contract, deed, note, mortgage, or abstract or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, abstract or other evidence of title within thirty days after the owner thereof is entitled thereto, and makes demand therefor, shall be prima facie evidence of such conversion;

(8) Failing, upon demand, to disclose any information within his or her knowledge to, or to produce any document, book or record in his or her possession for inspection of the director or his or her authorized representatives acting by authority of law;

(9) Continuing to sell any real estate, or operating according to a plan of selling, whereby the interests of the public are endangered, after the director has, by order in writing, stated objections thereto;

(10) Committing any act of fraudulent or dishonest dealing or a crime involving moral turpitude, and a certified copy of the final holding of any court of competent jurisdiction in such matter shall be conclusive evidence in any hearing under this chapter;

(11) Advertising in any manner without affixing the broker's name as licensed, and in the case of a salesperson or associate broker, without affixing the name of the broker as licensed for whom or under whom the salesperson or associate broker operates, to the advertisement; except, that a real estate broker, associate real estate broker, or real estate salesperson advertising their personally owned real property must only disclose that they hold a real estate license;

(12) Accepting other than cash or its equivalent as earnest money unless that fact is communicated to the owner prior to his or her acceptance of the offer to purchase, and such fact is shown in the earnest money receipt;

(13) Charging or accepting compensation from more than one party in any one transaction without first making full disclosure in writing of all the facts to all the parties interested in the transaction;

(14) Accepting, taking or charging any undisclosed commission, rebate or direct profit on expenditures made for the principal;

(15) Accepting employment or compensation for appraisal of real property contingent upon reporting a predetermined value;

(16) Issuing an appraisal report on any real property in which the broker, associate broker, or salesperson has an interest unless his or her interest is clearly stated in the appraisal report;

(17) Misrepresentation of his or her membership in any state or national real estate association;

(18) Discrimination against any person in hiring or in sales activity, on the basis of race, color, creed or national origin, or violating any of the provisions of any state or federal antidiscrimination law;

(19) Failing to keep an escrow or trustee account of funds deposited with him or her relating to a real estate transaction, for a period of three years, showing to whom paid, and such other pertinent information as the director may require, such records to be available to the director, or his or her representatives, on demand, or upon written notice given to the bank;

(20) Failing to preserve for three years following its consummation records relating to any real estate transaction;

(21) Failing to furnish a copy of any listing, sale, lease or other contract relevant to a real estate transaction to all signatories thereof at the time of execution;

(22) Acceptance by a branch manager, associate broker, or salesperson of a commission or any valuable consideration for the performance of any acts specified in this chapter, from any person, except the licensed real estate broker with whom he or she is licensed;

(23) To direct any transaction involving his or her principal, to any lending institution for financing or to any escrow company, in expectation of receiving a kickback or rebate therefrom, without first disclosing such expectation to his or her principal;

(24) ~~((Failing to disclose to an owner his or her intention or true position if he or she directly or indirectly through third party, purchases for himself or herself or acquires or intends to acquire any interest in, or any option to purchase, property))~~ Buying, selling, or leasing directly, or through a third party, any interest in real property without disclosing in writing that he or she holds a real estate license;

(25) In the case of a broker licensee, failing to exercise adequate supervision over the activities of his or her licensed associate brokers and salespersons within the scope of this chapter;

(26) Any conduct in a real estate transaction which demonstrates bad faith, dishonesty, untrustworthiness or incompetency;

(27) Acting as a mobile home and travel trailer dealer or salesperson, as defined in RCW 46.70.011 as now or hereafter amended, without having a license to do so;

(28) Failing to assure that the title is transferred under chapter 46.12 RCW when engaging in a transaction involving a mobile home as a broker, associate broker, or salesperson; or

(29) Violation of an order to cease and desist which is issued by the director under this chapter.

Passed the Senate March 3, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 15, 1990.

Filed in Office of Secretary of State March 15, 1990.

CHAPTER 86

[House Bill No. 2441]

DISABLED STUDENTS IN HIGHER EDUCATION TASK FORCE

AN ACT Relating to disabled students in higher education; creating a new section; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. (1) The governor's committee on disability issues and employment shall convene a task force on students in higher education with disabilities. The task force shall be composed of up to nine members representing disabled students, institutions of higher education, and state agencies. The task force may convene technical advisory committees as needed to assist and advise the task force.

(2) The task force shall:

(a) Recommend the separate roles of state agencies, institutions of higher education, and disabled students in ensuring that students with disabilities have an opportunity to obtain a higher education;

(b) Identify barriers to the admission and retention in higher education of students with disabilities;

(c) Recommend optional methods of providing centralized and decentralized assistance to disabled students and to the institutions of higher education where those students are enrolled;

(d) Provide a list of publishers who are willing to provide their textbooks on computer disks or on tape for use by students with disabilities, and provide the list to institutions of higher education;

(e) Recommend ways that the legislature and institutions of higher education can encourage publishers to provide textbooks in a format accessible by students with disabilities;

(f) Review available funding sources for assisting disabled students to obtain a higher education, including job training;

(g) Recommend methods to coordinate those funding sources in order to maximize a disabled student's opportunity to use them;

(h) Identify additional fiscal needs of both disabled students and the institutions of higher education serving them; and

(i) Recommend job descriptions for coordinators of disabled student services.

(3) The task force shall make a preliminary report to the office of financial management by October 1, 1990. The task force shall report its findings and recommendations to the governor and the legislature by December 1, 1990.

(4) The governor's committee on disability issues and employment may pay travel expenses and per diem to members of the task force and the technical advisory committees, as provided for in RCW 43.03.050, 43.03-.060, and 43.03.220.

(5) The department of services for the blind, the higher education coordinating board, the state board for community college education, the state board for vocational education, the office of the superintendent of education, the council of presidents, the division of vocational rehabilitation of the department of social and health services, the state library, and institutions of higher education shall assist and advise the task force and the technical advisory committees upon request.

(6) This section shall expire June 30, 1991.

NEW SECTION. Sec. 2. The sum of twelve thousand dollars, or as much thereof as may be necessary, is appropriated for the biennium ending June 30, 1991, from the general fund to the governor's committee on disability issues and employment for the purposes of this act.

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

Passed the House February 12, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 87

[Substitute Senate Bill No. 6697]

COLUMBIA RIVER BRIDGE STUDY

AN ACT Relating to a Columbia river bridge study; and creating a new section.

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

NEW SECTION. Sec. 1. The Washington state transportation commission shall conduct a study consisting of the feasibility of constructing a second bridge over the Columbia river parallel to the existing Lewis and Clark bridge at Longview, Washington (Columbia river bridge 433/1) and a preliminary traffic survey of the Hood river toll bridge to obtain the origin and destination of trips and traffic volumes. The study shall be conducted in conjunction with affected local governments including the metropolitan

planning organization, where appropriate. The commission shall report its findings to the legislative transportation committee by December 1, 1990.

Passed the Senate February 7, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 88

[Substitute House Bill No. 1824]

STATE EMPLOYEE TUITION WAIVERS

AN ACT Relating to tuition waivers for state employees at state institutions of higher education; and adding a new section to chapter 28B.15 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 28B.15 RCW to read as follows:

(1) The governing boards of state institutions of higher education as defined in RCW 28B.10.016 may waive the tuition and services and activities fees for state employees as defined under subsection (2) of this section pursuant to the following conditions:

(a) Such state employees shall register for and be enrolled in courses on a space available basis and no new course sections shall be created as a result of the registration;

(b) Enrollment information on state employees registered pursuant to this section shall be maintained separately from other enrollment information and shall not be included in official enrollment reports, nor shall such state employees be considered in any enrollment statistics which would affect budgetary determinations; and

(c) State employees registering on a space available basis shall be charged a registration fee of not less than five dollars.

(2) For the purposes of this section, "state employees" means permanent full-time employees in classified service under chapters 28B.16 and 41.06 RCW.

Passed the House March 3, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 89

[Substitute Senate Bill No. 6290]

TELECOMMUNICATIONS DEVICES FOR THE HEARING AND SPEECH
IMPAIRED

AN ACT Relating to telecommunications devices for the hearing impaired and speech impaired; amending RCW 43.20A.720, 43.20A.725, and 43.20A.730; creating a new section; repealing section 7, chapter 304, Laws of 1987 (uncodified); and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds that provision of telecommunications devices and relay capability for hearing impaired persons is an effective and needed service which should be continued. The legislature further finds that the same devices and relay capability can serve and should be extended to serve speech impaired persons.

Sec. 2. Section 2, chapter 304, Laws of 1987 and RCW 43.20A.720 are each amended to read as follows:

"Hearing impaired" means those persons who are certified to be deaf, deaf-blind, or hard of hearing, and those persons who are certified to have a hearing disability limiting their access to telecommunications.

"Speech impaired" means persons who are certified to be unable to speak or who are certified to have a speech impairment limiting their access to telecommunications.

"Telecommunications device for the deaf (TDD)" means a teletypewriter that has a typewriter keyboard and a readable display that couples with the telephone, allowing messages to be typed rather than spoken. The device allows a person to make a telephone call directly to another person possessing similar equipment. The conversation is typed through one machine to the other machine instead of spoken.

"TDD relay system" is a service for hearing and speech impaired people who have a TDD to call someone who does not have a TDD or vice versa. The service consists of several telephones being utilized by TDD relay service operators who receive either TDD or voice phone calls. If a TDD relay service operator receives a phone call from a hearing or speech impaired person wishing to call a hearing person, the operator will call the hearing person and act as an intermediary by translating what is displayed on the TDD to voice and typing what is voiced into the TDD to be read by the ((deaf)) hearing or speech impaired caller. This process can also be reversed with a hearing person calling a deaf person through the TDD relay service.

"Qualified trainer" is a person who is knowledgeable about TDDs, signal devices, and amplifying accessories; familiar with the technical aspects of equipment designed to meet hearing impaired people's needs; and is fluent in American sign language.

"Qualified contractor" shall have bilingual staff available for quality language/cultural interpretations; quality training of operators; and policies, training, and operational procedures to be determined by the office.

"The department" means the department of social and health services of the state of Washington.

"Office" means the office of deaf services within the state department of social and health services.

Sec. 3. Section 3, chapter 304, Laws of 1987 and RCW 43.20A.725 are each amended to read as follows:

(1) The department shall ~~((design and implement))~~ maintain a program whereby TDDs, signal devices, a TDD relay system, and amplifying accessories capable of serving the needs of the hearing and speech impaired shall be provided at no charge additional to the basic exchange rate, to an individual of school age or older, (a) who is certified as hearing impaired by a licensed physician, audiologist, or a qualified state agency, and to any subscriber that is an organization representing the hearing impaired, as determined and specified by the TDD advisory committee; or (b) who is certified as speech impaired by a licensed physician, speech pathologist, or a qualified state agency, and to any subscriber that is an organization representing the speech impaired, as determined and specified by the TDD advisory committee. For the purpose of this section, certification implies that individuals cannot use the telephone for expressive or receptive communications due to hearing or speech impairment.

(2) The office shall award contracts on a competitive basis, to qualified persons for which eligibility to contract is determined by the office, for the distribution and maintenance of such TDDs, signal devices, and amplifying accessories as shall be determined by the office. Such contract shall include a provision for the employment and use of a qualified trainer and the training of recipients in the use of such devices.

(3) ~~((TDDs, signal devices, and amplifying accessories shall be made available to qualified recipients by December 1, 1987))~~ The office shall establish and implement a policy for the ultimate responsibility for recovery of TDDs, signal devices, and amplifying accessories from recipients who are moving from this state or who for other reasons are no longer using them.

(4) Pursuant to recommendations of the TDD advisory committee, the office shall maintain a program whereby a relay system will be provided state-wide using operator intervention to connect hearing impaired and speech impaired persons and offices or organizations representing the hearing impaired and speech impaired, as determined and specified by the TDD advisory committee pursuant to section 4 of this act. The relay system shall be the most cost-effective possible and shall operate in a manner consistent with federal requirements for such systems.

(5) The program shall be funded by telecommunications devices for the deaf (TDD) excise tax applied to each switched access line provided by the

local exchange companies. The office shall determine, in consultation with the TDD advisory committee, the amount of money needed to fund the program on an annual basis, including both operational costs and a reasonable amount for capital improvements such as equipment upgrade and replacement. That information shall be given by the department in an annual budget to the utilities and transportation commission no later than March 1 prior to the beginning of the fiscal year. The utilities and transportation commission shall then determine the amount of TDD excise tax to be placed on each access line and shall inform each local exchange company of this amount no later than May 15. The TDD excise tax shall not exceed ten cents per month per access line. Each local exchange company shall impose the amount of excise tax determined by the commission as of July 1, and shall remit the amount collected directly to the department on a monthly basis. The TDD excise tax shall be separately identified on each ratepayer's bill as "Telecommunications devices funds for deaf and hearing impaired". All proceeds from the TDD excise tax shall be put into a fund to be administered by the office through the department.

(6) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of RCW 43.20A.725.

(7) The department shall provide the legislature with a biennial report on the operation of the program. The first report shall be provided no later than December 1, 1990, and successive reports every two years thereafter. Reports shall be prepared in consultation with the TDD advisory committee and the utilities and transportation commission. The reports shall, at a minimum, briefly outline the accomplishments of the program, the number of persons served, revenues and expenditures, the prioritizing of services to those eligible based on such factors as degree of physical handicap or the allocation of the program's revenue between provision of devices to individuals and operation of the state-wide relay service, other major policy or operational issues, and proposals for improvements or changes for the program. The first report shall contain a study which includes examination of like programs in other states, alternative methods of financing the program, alternative methods of using the telecommunications system, advantages and disadvantages of operating the TDD program from within the department, by telecommunications companies, and by a private, nonprofit corporation, and means to limit demand for system usage.

(8) The program shall be consistent with the requirements of federal law for the operation of both interstate and intrastate telecommunications services for the deaf or hearing impaired or speech impaired. The department and the utilities and transportation commission shall be responsible for

ensuring compliance with federal requirements and shall provide timely notice to the legislature of any legislation that may be required to accomplish compliance.

Sec. 4. Section 4, chapter 304, Laws of 1987 and RCW 43.20A.730 are each amended to read as follows:

(1) The department advisory committee on deafness shall establish a TDD advisory committee ((to study the feasibility of implementing a state-wide telecommunications relay system)) to oversee operation of the TDD program. The TDD advisory committee shall consist of no more than thirteen individuals ((from)) representing the hearing impaired and speech impaired communities, ((representatives from)) the department, the utilities and transportation commission, agencies and services serving the hearing impaired and speech impaired, and local exchange companies in the state. The membership on the TDD advisory committee shall, to the maximum extent possible, include representatives from (a) the major state-wide organizations representing the hearing impaired and speech impaired, (b) organizations for the hearing impaired and speech impaired located in areas of the state with high populations of such persons, and (c) organizations that reflect the different geographic regions of the state. In order to develop ((and)), implement, and maintain a state-wide relay system providing cost-effective relay centers at a reasonable cost and that will meet the requirements of the hearing impaired and speech impaired, the TDD advisory committee shall investigate options, conduct public hearings as needed to determine the most cost-effective method of ((creating)) operating a state-wide relay system providing relay centers to the hearing impaired and speech impaired, and solicit the advice, counsel, and assistance of interested parties and nonprofit consumer organizations for hearing impaired and speech impaired persons state-wide. ((Such committee shall begin the study within thirty days of July 26, 1987, to be completed within six months after the study begins.)) The TDD advisory committee(;) shall also, in conjunction with the department, monitor the activities and moneys that ((is fare)) are being spent by the department for the program herein.

(2) ((Pursuant to the recommendations of the TDD advisory committee, the office shall implement a program whereby relay centers will be provided state-wide using operator intervention to connect hearing impaired persons and offices of organizations representing the hearing impaired, as determined and specified by the TDD advisory committee pursuant to subsection (4) of this section, and connect hearing persons within six months after the office receives the recommendations:

(3) The program will be funded by telecommunications devices for the deaf (TDD) excise tax applied to each switched access line provided by the local exchange companies. The office shall determine the amount of money needed to fund the program. That information shall be given to the utilities and transportation commission. The utilities and transportation commission

~~shall then determine the amount of TDD excise tax to be placed on each access line. The TDD excise tax shall not exceed ten cents per month per access line. The TDD excise tax shall be separately identified on each ratepayer's bill as "Telecommunications devices funds for deaf and hearing impaired." All proceeds from the TDD excise tax will be put into a fund to be administered by the office through the department.~~

~~(4)) The TDD advisory committee shall establish criteria and specify state-wide organizations representing the hearing or speech impaired meeting such criteria that are to receive telecommunications devices pursuant to RCW 43.20A.725(1), and in which offices the equipment shall be installed if an organization has more than one office.~~

~~((5) The office shall establish a policy determining the ultimate ownership and responsibility for the recovery of TDDs, signal devices, and amplifying accessories from recipients who are moving from this state.~~

~~(6) The office shall administer and control the award of money to all parties incurring costs in implementing and maintaining telecommunications services, programs, equipment, and technical support services in accordance with the provisions of RCW 43.20A.725.~~

~~(7) A study will be authorized to determine the number of hearing impaired people who have party lines and the costs of converting them to single lines. The TDD advisory committee will report the study findings to the utilities and transportation commission. The study will be completed by the TDD advisory committee within a year of July 26, 1987;))~~

NEW SECTION. Sec. 5. Section 7, chapter 304, Laws of 1987 (uncodified) is repealed.

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 3, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 90

[House Bill No. 2331]

TEACHER PREPARATION—ABUSE ISSUES

AN ACT Relating to teacher preparation on issues of abuse; and adding a new section to Title 28A RCW.

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

NEW SECTION. Sec. 1. A new section is added to Title 28A RCW to read as follows:

To receive initial certification as a teacher in this state after August 31, 1991, an applicant shall have successfully completed a course on issues of abuse. The content of the course shall discuss the identification of physical, emotional, sexual, and substance abuse, information on the impact of abuse on the behavior and learning abilities of students, discussion of the responsibilities of a teacher to report abuse or provide assistance to students who are the victims of abuse, and methods for teaching students about abuse of all types and their prevention.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 91

[House Bill No. 2942]

RECREATIONAL FISHERIES ENHANCEMENT PLAN PROGRESS REPORTS

AN ACT Relating to progress reports on the recreational fisheries enhancement plan; and adding new sections to chapter 75.08 RCW.

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

NEW SECTION. Sec. 1. The legislature is aware that the Washington state department of fisheries introduced a broad new program titled "The Recreational Fishery Enhancement Plan" in October of 1989. The declared purpose of the plan is to emphasize recreational opportunities and develop the plan with emphasis on recreational salmon fishing.

The plan boldly adopts, as its chief goal, Governor Gardner's personal objective: Make Washington the recreational fishing capital of the nation. The director states this will be accomplished through a series of regional programs. The legislature commends the director for his recreational fishery enhancement plan and the various concepts it contains to meet the need for recreational emphasis.

The legislature recognizes that any plan such as the recreational fishery enhancement plan requires creative thinking, innovation, commitment, allocation of appropriate resources, and risk taking. Certain failures may occur in aspects of the programs but only through such far-sighted acceptance of risks will success be achieved.

Because of the importance of this effort to the state of Washington, the legislature and the thousands of Washington recreational fishers must be kept informed as to the progress and success of the recreational fishery enhancement plan.

NEW SECTION. Sec. 2. The director shall report to the governor and the appropriate legislative committees regarding its progress on the recreational fishery enhancement plan giving the following minimum information:

(1) By July 1, 1990, and by July 1st each succeeding year a report shall include:

(a) Progress on all programs within the plan that are referred to as already underway; and

(b) Specific anticipated needs for additional FTE's, additional capital funds or other needed resources, including whether or not current budgetary dollars are sufficient.

(2) By November 1, 1990, and by November 1st each succeeding year a report shall provide the many specificities omitted from the recreational fishery enhancement plan. They include but are not limited to the following:

(a) The name of the person assigned the responsibility and accountability for over-all management of the recreational fishery enhancement plan.

(b) The name of the person responsible and accountable for management of each regional program.

(c) The anticipated yearly costs related to each regional program.

(d) The specific dates relative to attainment of the recreational fishery enhancement plan goals, including a time-line program by region.

(e) Criteria used for measurement of the successful attainment of the recreational fishery enhancement plan.

***NEW SECTION. Sec. 3. Sections 1 and 2 of this act are each added to chapter 75.08 RCW.**

*Sec. 3 was vetoed, see message at end of chapter.

Passed the House February 13, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 19, 1990.

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

"I am returning herewith, without my approval as to section 3, House Bill No. 2942 entitled:

"AN ACT Relating to progress reports on the recreational fisheries enhancement plan."

I am supportive of the Recreational Fisheries Enhancement Plan initiated by the Washington Department of Fisheries. I also understand the interest of legislative members in being kept apprised of the implementation of the Plan. I do not, however, believe that it is necessary to codify the intent section of this bill.

I have vetoed section 3 which would have required the codification and will ask the Code Reviser to footnote the intent section.

With the exception of section 3, House Bill No. 2942 is approved.

CHAPTER 92

[House Bill No. 2335]

CEMETERIES—ABANDONED AND HISTORIC—MAINTENANCE AND PROTECTION

AN ACT Relating to cemeteries; amending RCW 68.04.040; adding a new chapter to Title 68 RCW; recodifying RCW 68.05.420; repealing RCW 68.05.410; and prescribing penalties.

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) "Abandoned cemetery" means a burial ground of the human dead in which the county assessor can find no record of an owner; or where the last known owner is deceased and lawful conveyance of the title has not been made; or in which a cemetery company, cemetery association, corporation, or other organization formed for the purposes of burying the human dead has either disbanded, been administratively dissolved by the secretary of state, or otherwise ceased to exist, and for which title has not been conveyed.

(2) "Historical cemetery" means any burial site or grounds which contain within them human remains buried prior to November 11, 1889; except that (a) cemeteries holding a valid certificate of authority to operate granted under RCW 68.05.115 and 68.05.215, (b) cemeteries owned or operated by any recognized religious denomination that qualifies for an exemption from real estate taxation under RCW 84.36.020 on any of its churches or the ground upon which any of its churches are or will be built, and (c) cemeteries controlled or operated by a coroner, county, city, town, or cemetery district shall not be considered historical cemeteries.

(3) "Historic grave" means a grave or graves that were placed outside a cemetery dedicated pursuant to this chapter and to chapter 68.24 RCW, prior to the effective date of this act, except Indian graves and burial cairns protected under chapter 27.44 RCW.

(4) "Cemetery" has the meaning provided in RCW 68.04.040(2).

NEW SECTION. Sec. 2. Any cemetery, historical cemetery, or historic grave that has not been dedicated pursuant to RCW 68.24.030 and 68.24.040 shall be considered permanently dedicated and subject to RCW 68.24.070. Removal of dedication may only be made pursuant to RCW 68.24.090 and 68.24.100.

NEW SECTION. Sec. 3. The archaeological and historical division of the department of community development may grant by nontransferable certificate authority to maintain and protect an abandoned cemetery upon application made by a preservation organization which has been incorporated for the purpose of restoring, maintaining, and protecting an abandoned

cemetery. Such authority shall be limited to the care, maintenance, restoration, protection, and historical preservation of the abandoned cemetery, and shall not include authority to make burials, unless specifically granted by the cemetery board.

Those preservation and maintenance corporations that are granted authority to maintain and protect an abandoned cemetery shall be entitled to hold and possess burial records, maps, and other historical documents as may exist. Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery shall not be liable to those claiming burial rights, ancestral ownership, or to any other person or organization alleging to have control by any form of conveyance not previously recorded at the county auditor's office within the county in which the abandoned cemetery exists. Such organizations shall not be liable for any reasonable alterations made during restoration work on memorials, roadways, walkways, features, plantings, or any other detail of the abandoned cemetery.

Should the maintenance and preservation corporation be dissolved, the archaeological and historical division of the department of community development shall revoke the certificate of authority.

Maintenance and preservation corporations that are granted authority to maintain and protect an abandoned cemetery may establish care funds pursuant to chapter 68.44 RCW, and shall report in accordance with chapter 68.44 RCW to the state cemetery board.

NEW SECTION. Sec. 4. (1) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, mutilates, effaces, or otherwise injures, tears down or removes, any tomb, plot, monument, memorial, or marker in a cemetery, or any gate, door, fence, wall, post, or railing, or any enclosure for the protection of a cemetery or any property in a cemetery is guilty of a class C felony punishable under chapter 9A.20 RCW.

(2) Every person who in a cemetery unlawfully or without right willfully destroys, cuts, breaks, removes, or injures any building, statuary, ornamentation, tree, shrub, flower, or plant within the limits of a cemetery is guilty of a gross misdemeanor punishable under chapter 9A.20 RCW.

(3) Every person who in a cemetery unlawfully or without right willfully opens a grave; removes personal effects of the decedent; removes all or portions of human remains; removes or damages caskets, surrounds, outer burial containers, or any other device used in making the original burial; transports unlawfully removed human remains from the cemetery; or knowingly receives unlawfully removed human remains from the cemetery is guilty of a class C felony punishable under chapter 9A.20 RCW.

NEW SECTION. Sec. 5. Any person who violates any provision of this chapter is liable in a civil action by and in the name of the state cemetery board to pay all damages occasioned by their unlawful acts. The sum

recovered shall be applied in payment for the repair and restoration of the property injured or destroyed and to the care fund if one is established.

NEW SECTION. Sec. 6. Sections 1 through 5 of this act shall constitute a new chapter in Title 68 RCW.

Sec. 7. Section 4, chapter 247, Laws of 1943 as amended by section 1, chapter 21, Laws of 1979 and RCW 68.04.040 are each amended to read as follows:

"Cemetery" means: (1) Any one, or a combination of more than one, of the following, in a place used, or intended to be used, and dedicated, for cemetery purposes:

~~((1))~~ (a) A burial park, for earth interments.

~~((2))~~ (b) A mausoleum, for crypt interments.

~~((3))~~ (c) A columbarium, for permanent cinerary interments; or

(2) For the purposes of chapter 68.— RCW (sections 1 through 5 of this act) only, "cemetery" means any burial site, burial grounds, or place where five or more human remains are buried. Unless a cemetery is designated as a parcel of land identifiable and unique as a cemetery within the records of the county assessor, a cemetery's boundaries shall be a minimum of ten feet in any direction from any burials therein.

NEW SECTION. Sec. 8. RCW 68.05.420 is recodified as a section in chapter 68.— RCW (sections 1 through 5 of this act).

NEW SECTION. Sec. 9. Section 4, chapter 44, Laws of 1989 and RCW 68.05.410 are each repealed.

Passed the House February 9, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 93

[Substitute Senate Bill No. 5935]

CAPITOL CAMPUS DESIGN ADVISORY COMMITTEE

AN ACT Relating to the capitol campus; and adding a new section to chapter 43.34 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 43.34 RCW to read as follows:

(1) The capitol campus design advisory committee is established as an advisory group to the capitol committee and the director of general administration to review programs, planning, design, and landscaping of state

capitol facilities and grounds and to make recommendations that will contribute to the attainment of architectural, aesthetic, functional, and environmental excellence in design and maintenance of capitol facilities on campus and located in neighboring communities.

(2) The advisory committee shall consist of the following persons who shall be appointed by and serve at the pleasure of the governor:

- (a) Two architects;
- (b) A landscape architect; and
- (c) An urban planner.

The governor shall appoint the chair and vice-chair and shall instruct the director of general administration to provide the staff and resources necessary for implementing this section. The advisory committee shall meet at least once every ninety days and at the call of the chair.

The members of the committee shall be reimbursed as provided in RCW 43.03.220 and 44.04.120.

(3) The advisory committee shall also consist of the secretary of state and two members of the house of representatives, one from each caucus, who shall be appointed by the speaker of the house of representatives, and two members of the senate, one from each caucus, who shall be appointed by the president of the senate.

(4) The advisory committee shall review plans and designs affecting state capitol facilities as they are developed. The advisory committee's review shall include:

(a) The process of solicitation and selection of appropriate professional design services including design-build proposals;

(b) Compliance with the capitol campus master plan and design concepts as adopted by the capitol committee;

(c) The design, siting, and grouping of state capitol facilities relative to the service needs of state government and the impact upon the local community's economy, environment, traffic patterns, and other factors;

(d) The relationship of overall state capitol facility planning to the respective comprehensive plans for long-range urban development of the cities of Olympia, Lacey, and Tumwater, and Thurston county; and

(e) Landscaping plans and designs, including planting proposals, street furniture, sculpture, monuments, and access to the capitol campus and buildings.

Passed the Senate February 8, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 94

[House Bill No. 2461]

EMERGENCY VEHICLE LIGHTING AND EQUIPMENT—SALES PROHIBITION

AN ACT Relating to emergency vehicle lighting and equipment; adding a new section to chapter 46.37 RCW; and creating a new section.

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

NEW SECTION. Sec. 1. The legislature declares that public agencies should not engage in activity that leads or abets a person to engage in conduct that is not lawful. The legislature finds that some public agencies sell emergency vehicle lighting equipment at public auctions to persons who may not lawfully use the equipment. The legislature further finds that this practice misleads well-intentioned citizens and also benefits malevolent individuals.

NEW SECTION. Sec. 2. A new section is added to chapter 46.37 RCW to read as follows:

A public agency shall not sell or give emergency vehicle lighting equipment or other equipment to a person who may not lawfully operate the lighting equipment or other equipment on the public streets and highways.

Passed the House February 12, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 95

[Senate Bill No. 6606]

MOTOR VEHICLE WINDOW TINTING

AN ACT Relating to the exemptions and penalties for tinting or coloring of motor vehicle windows; amending RCW 46.37.430; reenacting and amending RCW 46.63.020; adding a new section to chapter 46.37 RCW; and prescribing penalties.

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

Sec. 1. Section 46.37.430, chapter 12, Laws of 1961 as last amended by section 1, chapter 210, Laws of 1989 and RCW 46.37.430 are each amended to read as follows:

(1) No person may sell any new motor vehicle as specified in this title, nor may any new motor vehicle as specified in this title be registered unless such vehicle is equipped with safety glazing material of a type ~~((approved by the state patrol wherever glazing material is used in doors, windows, and windshields))~~ that meets or exceeds federal standards, or if there are none, standards approved by the Washington state patrol. The foregoing provisions apply to all passenger-type motor vehicles, including passenger buses

and school buses, but in respect to trucks, including truck tractors, the requirements as to safety glazing material apply to all glazing material used in doors, windows, and windshields in the drivers' compartments of such vehicles except as provided by subsection (4) of this section.

(2) The term "safety glazing materials" means glazing materials so constructed, treated, or combined with other materials as to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they may be cracked or broken.

(3) The director of licensing shall not register any motor vehicle which is subject to the provisions of this section unless it is equipped with an approved type of safety glazing material, and he or she shall suspend the registration of any motor vehicle so subject to this section which ~~((he))~~ the director finds is not so equipped until it is made to conform to the requirements of this section.

(4) No person may sell or offer for sale, nor may any person operate a motor vehicle registered in this state which is equipped with, any camper manufactured after May 23, 1969, unless such camper is equipped with safety glazing material of a type conforming to rules adopted by the state patrol wherever glazing materials are used in outside windows and doors.

(5) No ~~((tinting))~~ film sunscreening or coloring material that reduces light transmittance to any degree may be applied to the surface of the safety glazing material in a motor vehicle unless it meets the following standards for such material:

(a) The maximum level of film sunscreening material to be applied to ~~((windshields and))~~ any window~~((s))~~, except the windshield, shall have a total reflectance of thirty-five percent or less, plus or minus three percent, and a light transmission of thirty-five percent or more, plus or minus three percent, when measured ~~((in conjunction with the safety glazing material))~~ against clear glass and where the vehicle is equipped with outside rearview mirrors on both the right and left. Installation of more than a single sheet of film sunscreening material to any window is prohibited. The same maximum levels of film sunscreen material may be applied to windows to the immediate right and left of the driver on limousines and passenger buses used to transport persons for compensation and vehicles identified by the manufacturer as multi-use, multipurpose, or other similar designation. All windows to the rear of the driver on such vehicles may have film sunscreening material applied that has less than thirty-five percent light transmittance, if the light reflectance is thirty-five percent or less and the vehicle is equipped with outside rearview mirrors on both the right and left. Manufacturers of film sunscreening material shall provide a label to affix to the vehicle indicating the percentage light transmittance and light reflectance of the film and it shall be affixed by the installer to the area immediately below the federal vehicle identification number sticker on the driver's side striker post.

All vehicles equipped with film sunscreening material are required, on and after January 1, 1991, to meet the labeling requirements in this section. The label shall meet standards adopted by the state patrol.

(b) ~~((This section shall permit))~~ A greater degree of light reduction is permitted on all windows and the top six inches of windshields of a vehicle operated by or carrying as a passenger a person who possesses a written verification from a licensed physician that the operator or passenger must be protected from exposure to sunlight for physical or medical reasons.

(c) Windshield application. ~~((The application of sunscreening material is restricted to))~~ A greater degree of light reduction is permitted on the top six-inch area of a vehicle's windshield. Clear film sunscreening material that reduces or eliminates ultraviolet light may be applied to windshields.

(d) ~~((F))~~ When film sunscreening material is applied to ~~((the rear-view))~~ any window except the windshield, outside mirrors on both the left and right sides shall be located so as to reflect to the driver a view of the roadway, through each mirror, a distance of at least two hundred feet to the rear of the vehicle.

(e) The following types ~~((of colors))~~ of film sunscreening material are not permitted:

- (i) Mirror finish products;
- (ii) Red, gold, yellow, or black material; or
- (iii) Film sunscreening material that is in liquid preapplication form and brushed or sprayed on.

Nothing in this section prohibits the use of shaded or heat-absorbing safety glazing material in which the shading or heat-absorbing characteristics have been applied at the time of manufacture of the safety glazing material and which meet federal standards and the standards of the state patrol for such safety glazing materials.

(6) It is a ~~((misdemeanor))~~ traffic infraction for any person to operate a vehicle for use on the public highways of this state, if the vehicle is equipped with ~~((tinting))~~ film sunscreening or coloring material in violation of this section.

(7) ~~((Limousines and passenger buses used to transport persons for compensation are exempt from the requirements of this section))~~ Owners of vehicles with film sunscreening material applied to windows to the rear of the driver, prior to the effective date of this act, must comply with the requirements of this section and section 2 of this act by July 1, 1993.

NEW SECTION. Sec. 2. A new section is added to chapter 46.37 RCW to read as follows:

From the effective date of this act, a person who installs safety glazing or film sunscreening material in violation of RCW 46.37.430 is guilty of unlawful installation of safety glazing or film sunscreening materials. Unlawful installation is a misdemeanor.

Sec. 3. Section 20, chapter 111, Laws of 1989, section 27, chapter 178, Laws of 1989, and section 8, chapter 353, Laws of 1989 and RCW 46.63-.020 are each reenacted and amended to read as follows:

Failure to perform any act required or the performance of any act prohibited by this title or an equivalent administrative regulation or local law, ordinance, regulation, or resolution relating to traffic including parking, standing, stopping, and pedestrian offenses, is designated as a traffic infraction and may not be classified as a criminal offense, except for an offense contained in the following provisions of this title or a violation of an equivalent administrative regulation or local law, ordinance, regulation, or resolution:

- (1) RCW 46.09.120(2) relating to the operation of a nonhighway vehicle while under the influence of intoxicating liquor or a controlled substance;
- (2) RCW 46.09.130 relating to operation of nonhighway vehicles;
- (3) RCW 46.10.090(2) relating to the operation of a snowmobile while under the influence of intoxicating liquor or narcotics or habit-forming drugs or in a manner endangering the person of another;
- (4) RCW 46.10.130 relating to the operation of snowmobiles;
- (5) Chapter 46.12 RCW relating to certificates of ownership and registration;
- (6) RCW 46.16.010 relating to initial registration of motor vehicles;
- (7) RCW 46.16.011 relating to permitting unauthorized persons to drive;
- (8) RCW 46.16.160 relating to vehicle trip permits;
- (9) RCW 46.16.381(8) relating to unauthorized acquisition of a special decal, license plate, or card for disabled persons' parking;
- (10) RCW 46.20.021 relating to driving without a valid driver's license;
- (11) RCW 46.20.336 relating to the unlawful possession and use of a driver's license;
- (12) RCW 46.20.342 relating to driving with a suspended or revoked license;
- (13) RCW 46.20.410 relating to the violation of restrictions of an occupational driver's license;
- (14) RCW 46.20.416 relating to driving while in a suspended or revoked status;
- (15) RCW 46.20.420 relating to the operation of a motor vehicle with a suspended or revoked license;
- (16) RCW 46.20.750 relating to assisting another person to start a vehicle equipped with an ignition interlock device;
- (17) RCW 46.25.170 relating to commercial driver's licenses;
- (18) Chapter 46.29 RCW relating to financial responsibility;

(19) RCW 46.30.040 relating to providing false evidence of financial responsibility;

(20) Section 2 of this act relating to wrongful installation of sunscreening material;

(21) RCW 46.44.180 relating to operation of mobile home pilot vehicles;

~~((21))~~ (22) RCW 46.48.175 relating to the transportation of dangerous articles;

~~((22))~~ (23) RCW 46.52.010 relating to duty on striking an unattended car or other property;

~~((23))~~ (24) RCW 46.52.020 relating to duty in case of injury to or death of a person or damage to an attended vehicle;

~~((24))~~ (25) RCW 46.52.090 relating to reports by repairmen, storage men, and appraisers;

~~((25))~~ (26) RCW 46.52.100 relating to driving under the influence of liquor or drugs;

~~((26))~~ (27) 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))~~ (28) RCW 46.55.020 relating to engaging in the activities of a registered tow truck operator without a registration certificate;

~~((28))~~ (29) RCW 46.55.035 relating to prohibited practices by tow truck operators;

~~((29))~~ (30) RCW 46.61.015 relating to obedience to police officers, flagmen, or fire fighters;

~~((30))~~ (31) RCW 46.61.020 relating to refusal to give information to or cooperate with an officer;

~~((31))~~ (32) RCW 46.61.022 relating to failure to stop and give identification to an officer;

~~((32))~~ (33) RCW 46.61.024 relating to attempting to elude pursuing police vehicles;

~~((33))~~ (34) RCW 46.61.500 relating to reckless driving;

~~((34))~~ (35) RCW 46.61.502 and 46.61.504 relating to persons under the influence of intoxicating liquor or drugs;

~~((35))~~ (36) RCW 46.61.520 relating to vehicular homicide by motor vehicle;

~~((36))~~ (37) RCW 46.61.522 relating to vehicular assault;

~~((37))~~ (38) RCW 46.61.525 relating to negligent driving;

~~((38))~~ (39) RCW 46.61.530 relating to racing of vehicles on highways;

~~((39))~~ (40) RCW 46.61.685 relating to leaving children in an unattended vehicle with the motor running;

~~((40))~~ (41) RCW 46.64.010 relating to unlawful cancellation of or attempt to cancel a traffic citation;

~~((41))~~ (42) RCW 46.64.020 relating to nonappearance after a written promise;

~~((42))~~ (43) RCW 46.64.048 relating to attempting, aiding, abetting, coercing, and committing crimes;

~~((43))~~ (44) Chapter 46.65 RCW relating to habitual traffic offenders;

~~((44))~~ (45) 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;

~~((45))~~ (46) Chapter 46.72 RCW relating to the transportation of passengers in for hire vehicles;

~~((46))~~ (47) Chapter 46.80 RCW relating to motor vehicle wreckers;

~~((47))~~ (48) Chapter 46.82 RCW relating to driver's training schools;

~~((48))~~ (49) 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;

~~((49))~~ (50) RCW 46.87.290 relating to operation of an unregistered or unlicensed vehicle under chapter 46.87 RCW.

Passed the Senate February 8, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 96

[Substitute Senate Bill No. 6681]

LEASING OF SURPLUS SCHOOL PROPERTY—RECAPTURE PROVISION
EXEMPTION

AN ACT Relating to the leasing of surplus school property; and amending RCW 28A.58.033.

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

Sec. 1. Section 2, chapter 115, Laws of 1980 as amended by section 2, chapter 306, Laws of 1981 and RCW 28A.58.033 are each amended to read as follows:

(1) Every school district board of directors is authorized to permit the rental, lease, or occasional use of all or any portion of any surplus real property owned or lawfully held by the district to any person, corporation, or government entity for profit or nonprofit, commercial or noncommercial purposes: PROVIDED, That the leasing or renting or use of such property is for a lawful purpose, is in the best interest of the district, and does not interfere with conduct of the district's educational program and related activities: PROVIDED FURTHER, That the lease or rental agreement entered into shall include provisions which permit the recapture of the leased or rented surplus property of the district should such property be needed for

school purposes in the future except in such cases where, due to proximity to an international airport, land use has been so permanently altered as to preclude the possible use of the property for a school housing students and the school property has been heavily impacted by surrounding land uses so that a school housing students would no longer be appropriate in that area.

(2) Authorization to rent, lease or permit the occasional use of surplus school property under this section, RCW 28A.58.034 and 28A.58.040, each as now or hereafter amended, is conditioned on the establishment by each school district board of directors of a policy governing the use of surplus school property.

(3) The board of directors of any school district desiring to rent or lease any surplus real property owned by the school district shall send written notice to the office of the state superintendent of public instruction. School districts shall not rent or lease the property for at least forty-five days following the date notification is mailed to the state superintendent of public instruction.

(4) Private schools shall have the same rights as any other person or entity to submit bids for the rental or lease of surplus real property and to have such bids considered along with all other bids: PROVIDED, That the school board may establish reasonable conditions for the use of such real property to assure the safe and proper operation of the property in a manner consistent with board policies.

Passed the Senate March 5, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 97

[Senate Bill No. 6777]

ROAD TO PARADISE

AN ACT Relating to designating state route number 706 as the Road to Paradise; and amending RCW 47.17.820.

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

Sec. 1. Section 165, chapter 51, Laws of 1970 ex. sess. and RCW 47-.17.820 are each amended to read as follows:

A state highway to be known as state route number 706, designated the Road to Paradise, is established as follows:

Beginning at a junction with state route number 7 at Elbe, thence easterly to a southwest entrance to Mt. Rainier National Park.

Passed the Senate February 8, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 98

[Substitute House Bill No. 2337]

COLLECTIVE BARGAINING SESSIONS—EXEMPTION FROM PUBLIC DISCLOSURE

AN ACT Relating to privacy of collective bargaining sessions; and amending RCW 42.30.140.

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

Sec. 1. Section 14, chapter 250, Laws of 1971 ex. sess. as last amended by section 94, chapter 175, Laws of 1989 and RCW 42.30.140 are each amended to read as follows:

If any provision of this chapter conflicts with the provisions of any other statute, the provisions of this chapter shall control: PROVIDED, That this chapter shall not apply to:

(1) The proceedings concerned with the formal issuance of an order granting, suspending, revoking, or denying any license, permit, or certificate to engage in any business, occupation, or profession or to any disciplinary proceedings involving a member of such business, occupation, or profession, or to receive a license for a sports activity or to operate any mechanical device or motor vehicle where a license or registration is necessary; or

(2) That portion of a meeting of a quasi-judicial body which relates to a quasi-judicial matter between named parties as distinguished from a matter having general effect on the public or on a class or group; or

(3) Matters governed by chapter 34.05 RCW, the Administrative Procedure Act; or

(4) (a) Collective bargaining sessions with employee organizations, including contract negotiations, grievance meetings, and discussions relating to the interpretation or application of a labor agreement; or (b) that portion of a meeting during which the governing body is planning or adopting the strategy or position to be taken by ((such)) the governing body during the course of any collective bargaining, professional negotiations, or grievance or mediation proceedings, or reviewing the proposals made in ((such)) the negotiations or proceedings while in progress.

Passed the House February 6, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 99

[Substitute House Bill No. 1264]
VITAL STATISTICS REGISTRATION

AN ACT Relating to vital statistics registration; and amending RCW 70.58.030.

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

Sec. 1. Section 18, chapter 83, Laws of 1907 as amended by section 6, chapter 5, Laws of 1961 ex. sess. and RCW 70.58.030 are each amended to read as follows:

The local registrar shall supply blank forms of certificates to such persons as require them. He or she shall carefully examine each certificate of birth, death, and fetal death when presented for record, and see that it has been made out in accordance with the provisions of law and the instructions of the state registrar. If any certificate of death is incomplete or unsatisfactory, ~~((he))~~ the local registrar shall call attention to the defects in the return, and withhold issuing the burial-transit permit until it is corrected. If the certificate of death is properly executed and complete, he or she shall issue a burial-transit permit to the funeral director or person acting as such. If a certificate of a birth is incomplete, he or she shall immediately notify the informant, and require ~~((him to supply))~~ that the missing items be supplied if they can be obtained. He or she shall sign ~~((his name))~~ as local registrar to each certificate filed in attest of the date of filing in ~~((his))~~ the office. He or she shall make a record of each birth, death, and fetal death certificate registered ~~((by him))~~ in such manner as directed by the state registrar. ~~((He))~~ The local registrar shall ~~((on or before the tenth day of each month;))~~ transmit to the state registrar ((all original certificates registered by him during the preceding month)) each original death or fetal death certificate no less than thirty days after the certificate was registered nor more than sixty days after the certificate was registered. On or before the fifteenth day and the last day of each month, each local registrar shall transmit to the state registrar all original birth certificates that were registered prior to that day and which had not been transmitted previously. A local registrar shall transmit an original certificate to the state registrar whenever the state registrar requests the transfer of the certificate from the local registrar. If no births or no deaths occurred in any month, he or she shall, on the tenth day of the following month, report that fact to the state registrar, on a card provided for this purpose((: PROVIDED, That in cities of the first class the city health officer may require the filing of two original certificates and may retain one of the duplicate original certificates as the city record)). Local registrars in counties in which a first class city or a city

of twenty-seven thousand or more population is located may retain an exact copy of the original and make certified copies of the exact copy.

Passed the House January 10, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 100

[Senate Bill No. 5169]

DEPARTMENT OF SOCIAL AND HEALTH SERVICES—REVENUE COLLECTION ACTIVITIES

AN ACT Relating to revenue collection by the department of social and health services; amending RCW 43.20B.635, 74.09.180, 74.09.182, 74.09.186, and 74.09.290; amending section 1, chapter 264, Laws of 1988 (uncodified); adding new sections to chapter 43.20B RCW; creating a new section; recodifying RCW 43.20A.440, 74.09.182, 74.09.186, and 74.09.750; and repealing RCW 74.09.184.

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

Sec. 1. Section 2, chapter 163, Laws of 1981 as amended by section 37, chapter 75, Laws of 1987 and RCW 43.20B.635 are each amended to read as follows:

After service of a notice of debt for an overpayment as provided for in RCW 43.20B.630, stating the debt accrued, the secretary may issue to any person, firm, corporation, association, political subdivision, or department of the state, an order to withhold and deliver property of any kind including, but not restricted to, earnings which are due, owing, or belonging to the debtor, when the secretary has reason to believe that there is in the possession of such person, firm, corporation, association, political subdivision, or department of the state property which is due, owing, or belonging to the debtor. The order to withhold and deliver shall state the amount of the debt, and shall state in summary the terms of this section, RCW ((7.33.280)) 6.27.150 and 6.27.160, chapters ((6.12)) 6.13 and ((6.16)) 6.15 RCW, 15 U.S.C. 1673, and other state or federal exemption laws applicable generally to debtors. The order to withhold and deliver shall be served in the manner prescribed for the service of a summons in a civil action or by certified mail, return receipt requested. Any person, firm, corporation, association, political subdivision, or department of the state upon whom service has been made shall answer the order to withhold and deliver within twenty days, exclusive of the day of service, under oath and in writing, and shall make true answers to the matters inquired of therein. The secretary may require further and additional answers to be completed by the person, firm, corporation, association, political subdivision, or department of the state. If any such person, firm, corporation, association, political subdivision, or department of the state possesses any property which may be subject to the claim of the

department of social and health services, such property shall be withheld immediately upon receipt of the order to withhold and deliver and shall, after the twenty-day period, upon demand, be delivered forthwith to the secretary. The secretary shall hold the property in trust for application on the indebtedness involved or for return, without interest, in accordance with final determination of liability or nonliability. In the alternative, there may be furnished to the secretary a good and sufficient bond, satisfactory to the secretary, conditioned upon final determination of liability. Where money is due and owing under any contract of employment, express or implied, or is held by any person, firm, corporation, association, political subdivision, or department of the state subject to withdrawal by the debtor, such money shall be delivered by remittance payable to the order of the secretary. Delivery to the secretary, subject to the exemptions under RCW ((7.33.280)) 6.27.150 and 6.27.160, chapters ((6.12)) 6.13 and ((6.16)) 6.15 RCW, 15 U.S.C. 1673, and other state or federal law applicable generally to debtors, of the money or other property held or claimed satisfies the requirement of the order to withhold and deliver. Delivery to the secretary serves as full acquittance, and the state warrants and represents that it shall defend and hold harmless for such actions persons delivering money or property to the secretary pursuant to this chapter. The state also warrants and represents that it shall defend and hold harmless for such actions persons withholding money or property pursuant to this chapter.

The secretary shall also, on or before the date of service of the order to withhold and deliver, mail or cause to be mailed by certified mail a copy of the order to withhold and deliver to the debtor at the debtor's last known post office address, or, in the alternative, a copy of the order to withhold and deliver shall be served on the debtor in the same manner as a summons in a civil action on or before the date of service of the order or within two days thereafter. The copy of the order shall be mailed or served together with a concise explanation of the right to petition for a hearing on any issue related to the collection. This requirement is not jurisdictional, but, if the copy is not mailed or served as provided in this section, or if any irregularity appears with respect to the mailing or service, the superior court, on its discretion on motion of the debtor promptly made and supported by affidavit showing that the debtor has suffered substantial injury due to the failure to mail the copy, may set aside the order to withhold and deliver and award to the debtor an amount equal to the damages resulting from the secretary's failure to serve on or mail to the debtor the copy.

Sec. 2. Section 74.09.180, chapter 26, Laws of 1959 as last amended by section 14, chapter 283, Laws of 1987 and RCW 74.09.180 are each amended to read as follows:

The provisions of this chapter shall not apply to recipients whose personal injuries are occasioned by negligence or wrong of another: PROVIDED, HOWEVER, That the secretary ((of the department of social and

~~health services may, in his discretion,)) may furnish assistance, under the provisions of this chapter, for the results of injuries to or illness of a recipient, and the department ((of social and health services)) shall thereby be subrogated to the recipient's rights against the recovery had from any tortfeasor ((and/or his or her)) or the tortfeasor's insurer, or both, and shall have a lien thereupon to the extent of the value of the assistance furnished by the department ((of social and health services: ~~PROVIDED FURTHER; That to the end of securing reimbursement of any assistance furnished to such a recipient, the department of social and health services may, as a nonexclusive legal remedy, assert and enforce a lien upon any claim, right of action, settlement proceeds, and/or money, including any claim for benefits arising from an insurance program, to which such recipient is entitled (a) against any tortfeasor and/or insurer of such tortfeasor, or (b) any contract of insurance, purchased by the recipient or any other person, providing coverage to such recipient for said injuries, any illness, dental costs, costs incident to birth, or any other coverage for purposes of or costs for which the department provides assistance or meets all or part of the cost of care to a vendor, to the extent of the assistance furnished by said department to the recipient. If a recovery shall be made and the subrogation or lien is satisfied either in full or in part as a result of an independent action initiated by or on behalf of a recipient to recover the personal injuries against any tortfeasor or insurer, then and in that event the amount repaid to the state of Washington as a result of said action, whether concluded by entry of a judgment or compromise and settlement, shall bear its proportionate share of attorney's fees and costs incurred by the injured recipient or his widow, children, or dependents, as the case may be, to the extent that such attorney's fees and costs are approved by the court in which the action is initiated, and upon notice to the department which shall have the right to be heard on the matter))~~. To secure reimbursement for assistance provided under this section, the department may pursue its remedies under section 7 of this 1990 act.~~

Sec. 3. Section 9, chapter 173, Laws of 1969 ex. sess. as amended by section 341, chapter 141, Laws of 1979 and RCW 74.09.182 are each amended to read as follows:

The form of the lien in ((~~RCW 74.09.180~~)) section 7 of this 1990 act shall be substantially as follows:

STATEMENT OF LIEN

Notice is hereby given that the State of Washington, Department of Social and Health Services, has rendered assistance or provided residential care to, a person who was injured on or about the day of in the county of state of, and the said

department hereby asserts a lien, to the extent provided in ~~((RCW 74.09-180))~~ section 7 of this 1990 act, for the amount of such assistance or residential care, upon any sum due and owing (name of injured person) from, alleged to have caused the injury, and/or his or her insurer and from any other person or insurer liable for the injury or obligated to compensate the injured person on account of such injuries by contract or otherwise.

STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES

By: (Title)

STATE OF WASHINGTON

COUNTY OF

} ss.

I,, being first duly sworn, on oath state: That I am (title); that I have read the foregoing Statement of Lien, know the contents thereof, and believe the same to be true.

.
~~((Subscribed))~~ Signed and sworn to or affirmed before me this day of, 19.. by _____
(name of person making statement).

(Seal or stamp)

.
Notary Public in and for the State of Washington((, _____ residing _____ at _____))
My appointment expires:

Sec. 4. Section 12, chapter 173, Laws of 1969 ex. sess. and RCW 74.09.186 are each amended to read as follows:

(1) No settlement made by and between the recipient and tort feisor and/or insurer shall discharge or otherwise compromise the lien created in ~~((RCW 74.09.180, against any money due or owing by such tort feisor or insurer to the recipient or relieve the tort feisor and/or insurer from liability by reason of such lien unless such settlement also provides for the payment and discharge of such lien or unless a written release or waiver of such claim or lien, signed by the department, be filed in the court where any action has been commenced on such claim, or in case no action has been commenced against the tort feisor and/or insurer, then such written release or waiver shall be delivered to the tort feisor or insurer))~~ section 7 of this 1990 act without the express written consent of the secretary. Discretion to compromise such liens rests solely with the secretary or the secretary's designee.

(2) No settlement or judgment shall be entered purporting to compromise the lien created by section 7 of this 1990 act without the express written consent of the secretary or the secretary's designee.

Sec. 5. Section 10, chapter 152, Laws of 1979 ex. sess. as amended by section 23, chapter 41, Laws of 1983 1st ex. sess. and RCW 74.09.290 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 shall generally serve in an advisory capacity to the secretary in the conduct of audits or investigations of physicians. ~~((In the conduct of such audits or investigations, the secretary may examine only those records or portions thereof, including patient records, for which services were rendered by a health care provider and reimbursed by the department))~~ 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 ((constitutes a violation of RCW 42.22.040)) 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 rescind 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. 6. Section 1, chapter 264, Laws of 1988 (uncodified) is amended to read as follows:

(1) Persons receiving public assistance, particularly families, frequently have great difficulty obtaining adequate housing. The department of social and health services is directed to conduct a pilot program designed to show whether the supply of housing for persons on public assistance would increase if the department made rental payments directly to landlords.

(2) The department shall solicit not fewer than three nor more than seven local governing bodies for participation in the pilot program. In implementing this program the department shall:

(a) Provide a written statement notifying the recipient of public assistance that the landlord may not legally require direct payment from the department;

(b) Upon written request of the recipient, pay to the recipient's landlord as defined in RCW 59.18.030, through the local governing body, that portion that equals ninety percent of the monthly public assistance grant which is allocated for rent in the department's payment standard under RCW 74.04.770 or ninety percent of the rent, whichever is less. No direct payment shall be made for rent of premises with respect to which the landlord is not in compliance with RCW 59.18.060;

(c) Promptly terminate such payments to the landlord upon the recipient's written request, provided that the recipient gives written notice of termination of direct payments to the landlord and the local governing body;

(d) Enter into an agreement with the local governing bodies selected to participate in the pilot program for the direct payment of rent to landlords.

(3) The local governing bodies selected to participate in the pilot program shall:

(a) Administer the pilot program using existing housing assistance providers, where appropriate;

(b) Charge the landlord a monthly fee of two dollars to cover the cost of administering each direct payment made under this section, which fee shall not be charged to the tenant;

(c) Charge the landlord a fee, up to fifty dollars, to cover the cost of inspecting and certifying that the housing unit is in compliance with the housing quality standards used for the United States department of housing and urban development, section eight existing housing program.

(4) The landlords participating in the pilot program shall mail to the secretary and the local governing body, by certified mail, a copy of any notice served upon the tenant under RCW 59.12.030 or 59.18.200 which terminates the tenancy. The notice, when mailed to the secretary and the local governing body, shall constitute the landlord's request that the secretary and local governing body cease making direct payments of rent to the landlord.

(5) No recipient of public assistance shall be liable to the department of social and health services for any amount incorrectly paid to a landlord under this section. The department shall recover such overpayment from the landlord ((under RCW 74.04.700)).

(6) The department of social and health services shall adopt rules under chapter 34.05 RCW regarding the pilot program.

(7) The secretary may include in the department's annual report to the governor and the legislature a summary of the progress and status of the pilot program. The summary shall include but need not be limited to the results of the individual projects selected, the number of persons served, and recommendations for improving the program.

(8) The secretary shall immediately take such steps as are necessary to ensure that this section is implemented on its effective date. This section shall take effect July 1, 1988.

(9) This section shall terminate June 30, 1991, unless extended by law for an additional fixed period of time.

NEW SECTION. Sec. 7. A new section is added to chapter 43.20B RCW to read as follows:

(1) To secure reimbursement of any assistance paid under chapter 74.09 RCW or reimbursement for any residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, as a result of injuries to or illness of a recipient caused by the negligence or wrong of another, the department shall be subrogated to the recipient's rights against a tortfeasor or the tortfeasor's insurer, or both.

(2) The department shall have a lien upon any recovery by or on behalf of the recipient from such tortfeasor or the tortfeasor's insurer, or both to the extent of the value of the assistance paid or residential care provided by the department, provided that such lien shall not be effective against recoveries subject to wrongful death when there are surviving dependents of the deceased. The lien shall become effective upon filing with the county auditor in the county where the assistance was authorized or where any action is brought against the tortfeasor or insurer. The lien may also be filed in any other county or served upon the recipient in the same manner as a civil summons if, in the department's discretion, such alternate filing or service is necessary to secure the department's interest. The additional lien shall be effective upon filing or service.

(3) The lien of the department shall be upon any claim, right of action, settlement proceeds, money, or benefits arising from an insurance program to which the recipient might be entitled (a) against the tortfeasor or insurer of the tortfeasor, or both, and (b) under any contract of insurance purchased by the recipient or by any other person providing coverage for the illness or injuries for which the assistance or residential care is paid or provided by the department.

(4) If recovery is made by the department under this section and the subrogation is fully or partially satisfied through an action brought by or on behalf of the recipient, the amount paid to the department shall bear its proportionate share of attorneys' fees and costs. The determination of the proportionate share to be borne by the department shall be based upon:

(a) The fees and costs approved by the court in which the action was initiated; or

(b) The written agreement between the attorney and client which establishes fees and costs when fees and costs are not addressed by the court.

(c) When fees and costs have been approved by a court, after notice to the department, the department shall have the right to be heard on the matter of attorneys' fees and costs or its proportionate share.

(d) When fees and costs have not been addressed by the court, the department shall receive at the time of settlement a copy of the written agreement between the attorney and client which establishes fees and costs and may request and examine documentation of fees and costs associated with the case. The department may bring an action in superior court to void a settlement if it believes the attorneys' calculation of its proportionate share of fees and costs is inconsistent with the written agreement between the attorney and client which establishes fees and costs or if the fees and costs associated with the case are exorbitant in relation to cases of a similar nature.

NEW SECTION. Sec. 8. A new section is added to chapter 43.20B RCW to read as follows:

An attorney representing a person who, as a result of injuries or illness sustained through the negligence or wrong of another, has received, is receiving, or has applied to receive assistance under chapter 74.09 RCW, or residential care provided by the department at a hospital for the mentally ill or habilitative care center for the developmentally disabled, shall:

(1) Notify the department at the time of filing any claim against a third party, commencing an action at law, negotiating a settlement, or accepting a settlement offer from the tortfeasor or the tortfeasor's insurer, or both; and

(2) Give the department thirty days' notice before any judgment, award, or settlement may be satisfied in any action or any claim by the applicant or recipient to recover damages for such injuries or illness.

NEW SECTION. Sec. 9. RCW 43.20A.440 is recodified as RCW 43.20B.687.

NEW SECTION. Sec. 10. RCW 74.09.182 and 74.09.186 are recodified as sections in chapter 43.20B RCW.

NEW SECTION. Sec. 11. RCW 74.09.750 is recodified as RCW 43.20B.130.

NEW SECTION. Sec. 12. Section 10, chapter 173, Laws of 1969 ex. sess. and RCW 74.09.184 are each repealed.

NEW SECTION. Sec. 13. Sections 2, 4, 7(1), and 8(2) of this act apply to all existing claims against third parties for which settlements have not been reached or judgments entered by the effective date of this section.

Passed the Senate March 5, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 101

[Substitute Senate Bill No. 6221]

HIGH SCHOOL AND BEYOND ASSESSMENT PROGRAM

AN ACT Relating to the Washington state high school and beyond program; amending RCW 28A.03.360; and adding new sections to Title 28A RCW.

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

NEW SECTION. Sec. 1. The Washington state high school and beyond assessment program is hereby established to (1) provide information to guide students toward improved self-understanding, maximize use of their talents, and increase their awareness of the options available to them, all of which are essential to making informed decisions about choices in high school and beyond; and (2) provide information that will assist education policy makers, at all levels, determine the achievement levels of students, evaluate existing programs and services for students, identify appropriate new programs or services, and assess the effects of educational policies over time.

NEW SECTION. Sec. 2. The superintendent of public instruction shall prepare and conduct, with the assistance of school districts, an annual assessment of all students in the eighth grade. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school courses for students and to provide information about students' current academic proficiencies both in the basic skills of reading, mathematics, and language, and in the reasoning and thinking skills essential for successful entry into those courses required for high school graduation. The assessment shall also include the collection of

information about students' interests and plans for high school and beyond and may include the collection of other related student and school information. The superintendent of public instruction shall make the results of the assessment available to all school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of sections 1 through 5 of this act.

NEW SECTION. Sec. 3. The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, an annual assessment of all students in the eleventh grade beginning with the 1991-92 school year. The purposes of the assessment are to provide achievement and guidance information to students, parents, and teachers that will assist in reviewing students' current performance and planning effectively for their initial years beyond high school. The achievement measures shall assess students' strengths and deficiencies in the broad content areas common to the high school curriculum and those thinking and reasoning skills essential for completing high school graduation requirements and for success beyond high school. The assessment shall also collect information about students' career interests and plans and other related student and school information including students' high school course selection patterns, course credits, and grades. The superintendent of public instruction shall make the results of the assessment available to all local school districts which shall in turn make them available to students, parents, and teachers in a timely fashion and in a manner consistent with the purposes of sections 1 through 5 of this act. No grade ten students shall be tested in the fall of 1990 and the funds already appropriated for such testing shall be used for the planning and preliminary development work necessary to implement sections 1 through 5 of this act.

NEW SECTION. Sec. 4. The superintendent of public instruction shall coordinate both the procedures and the content of the eighth and eleventh grade assessments to maximize the value of the information provided to students as they progress from eighth grade through high school and to teachers and parents about students' talents, interests, and academic needs or deficiencies so that appropriate programs can be provided to enhance the likelihood of students' success both in terms of high school graduation and beyond high school.

NEW SECTION. Sec. 5. The superintendent of public instruction shall report annually to the legislature on the results of the achievement levels of students in grades eight and eleven.

Sec. 6. Section 1, chapter 98, Laws of 1975-'76 2nd ex. sess. as last amended by section 1, chapter 403, Laws of 1985 and RCW 28A.03.360 are each amended to read as follows:

(1) Every school district is encouraged to test pupils in grade two by an assessment device designed or selected by the ((local)) school district((s)).

This test shall be used to help teachers in identifying those pupils in need of assistance in the skills of reading, writing, mathematics, and language arts. The test results are not to be compiled by the superintendent of public instruction, but are only to be used by the local school district.

(2) The superintendent of public instruction shall prepare and conduct, with the assistance of ~~((local))~~ school districts, a standardized achievement test to be given annually to all pupils in grade four. The test shall assess students' skill in reading, mathematics, and language arts and shall focus upon appropriate input variables. Results of such tests shall be compiled by the superintendent of public instruction, who shall make those results available annually to the legislature, to all local school districts and subsequently to parents of those children tested. The results shall allow parents to ascertain the achievement levels and input variables of their children as compared with the other students within the district, the state and, if applicable, the nation.

~~(3) ((The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, an assessment to be administered annually to all grade eight students. The purposes of the assessment are to assist students, parents, and teachers in the planning and selection of appropriate high school programs and courses for the students and to provide comparisons within the district, the state and, if applicable, the nation. The assessment shall include but not be limited to tests in reading, mathematics, and language arts and a student interest inventory. The superintendent of public instruction shall make the results available to all local school districts which shall in turn make them available to students, parents, and teachers in a timely fashion.~~

~~(4) The superintendent of public instruction shall prepare and conduct, with the assistance of local school districts, a standardized achievement test to be given annually to all students in grade ten. The purposes of the test are to assist students in meeting district graduation requirements and in making decisions regarding potential career options and the test results shall allow schools and parents to ascertain the achievement levels of their students as compared with other students within the district, the state, and, if applicable, the nation. The results may also be used as an aid in the development of plans to build upon individual students' strengths and to address areas in which individual students' skills are not as strong. The test shall include but not be limited to examinations in reading, mathematics, and language arts and a student academic and career interest inventory and may include the collection of other academic achievement related information. Results of the test shall be compiled by the superintendent of public instruction who shall annually make the results available to all local school districts which shall in turn make the results available to students, parents,~~

and teachers in a timely fashion. In addition to a compilation of school district test results, the test results for each school shall be reported as they relate to selected demographic variables:

~~(5) The superintendent of public instruction shall test approximately two thousand students distributed throughout the state in the eleventh grade once every two years. Choice of students shall be based on a statistical random sample of students from this grade level sufficient to generalize about all of the students at the grade level from the state's school districts. The purpose of the test is to allow the public, the legislature, and school district personnel to evaluate how Washington students in this grade compare to students in the same grade tested in other comparable national achievement surveys.~~

~~(6)) The superintendent of public instruction shall report annually to the legislature on the achievement levels of students in grade((s) four(; eight, and ten and shall report biennially to the legislature on the achievement levels of students in grade eleven)).~~

NEW SECTION. Sec. 7. Sections 1 through 5 of this act are each added to Title 28A RCW.

Passed the Senate March 5, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 102

[Substitute House Bill No. 1450]

MOTOR FUEL INSPECTION

AN ACT Relating to motor fuel inspections; adding a new chapter to Title 19 RCW; prescribing penalties; and providing an effective date.

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

NEW SECTION. Sec. 1. It is desired that there should be uniformity among the requirements of the several states. This chapter provides for the establishment of quality specifications for all liquid motor fuels, except aviation fuel, marine fuel, and liquefied petroleum gases, and establishes a sampling, testing, and enforcement program.

NEW SECTION. Sec. 2. As used in this chapter:

(1) "Motor fuel" means any liquid product used for the generation of power in an internal combustion engine used for the propulsion of a motor vehicle upon the highways of this state. Motor fuels containing ethanol may be marketed as long as the base motor fuel meets the applicable standards before the addition of the ethanol.

(2) "Director" means the director of agriculture.

NEW SECTION. Sec. 3. This chapter shall be administered by the director or his or her authorized agent. For the purpose of administering this chapter, the standards set forth in the Annual Book of ASTM Standards and supplements thereto, and revisions thereof, are adopted, together with applicable federal environmental protection agency standards. If a conflict exists between federal environmental protection agency standards, ASTM standards, or state standards, for purposes of uniformity, federal environmental protection agency standards shall take precedence over ASTM standards. Any state standards adopted must be consistent with federal environmental protection agency standards and ASTM standards not in conflict with federal environmental protection agency standards.

The director may establish a testing laboratory. The director may also adopt rules on false and misleading advertising, labeling and posting of prices, and the standards for, and identity of, motor fuels.

NEW SECTION. Sec. 4. The director may:

(1) Enforce and administer this chapter by inspections, analyses, and other appropriate actions;

(2) Have access during normal business hours to all places where motor fuels are marketed for the purpose of examination, inspection, taking of samples, and investigation. If access is refused by the owner or agent or other persons leasing the same, the director or his or her agent may obtain an administrative search warrant from a court of competent jurisdiction;

(3) Collect or cause to be collected, samples of motor fuels marketed in this state, and cause such samples to be tested or analyzed for compliance with this chapter;

(4) Issue a stop-sale order for any motor fuel found not to be in compliance and rescind the stop-sale order if the motor fuel is brought into compliance with this chapter;

(5) Refuse, revoke, or suspend the registration of a motor fuel;

(6) Delegate to authorized agents any of the responsibilities for the proper administration of this chapter;

(7) Establish a motor fuel testing laboratory.

NEW SECTION. Sec. 5. All motor fuel shall be registered by the name, brand, or trademark under which it will be sold at the terminal. Registration shall include:

(1) The name and address of the person registering the motor fuel;

(2) The antiknock index or cetane number, as appropriate, at which the motor fuel is to be marketed;

(3) A certification, declaration, or affidavit that each individual grade or type of motor fuel shall conform to this chapter.

NEW SECTION. Sec. 6. It is unlawful to:

(1) Market motor fuels in any manner that may deceive or tend to deceive the purchaser as to the nature, price, quantity, and quality of a motor fuel;

(2) Fail to register a motor fuel;

(3) Submit incorrect, misleading, or false information regarding the registration of a motor fuel;

(4) Hinder or obstruct the director, or his or her authorized agent, in the performance of his or her duties;

(5) Market a motor fuel that is contrary to this chapter.

NEW SECTION. Sec. 7. Any person who knowingly violates any provision of this chapter or rules adopted under it is guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. The director shall assess a civil penalty ranging from one hundred dollars to ten thousand dollars per occurrence, giving due consideration to the appropriateness of the penalty with respect to the gravity of the violation, and the history of previous violations. Civil penalties collected under this chapter shall be deposited into the motor vehicle fund.

NEW SECTION. Sec. 8. The director may apply to any court of competent jurisdiction for a temporary or permanent injunction restraining any person from violating any provision of this chapter.

NEW SECTION. Sec. 9. This chapter is in addition to any requirements under chapter 19.94 RCW.

NEW SECTION. Sec. 10. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 11. Sections 1 through 9 of this act shall constitute a new chapter in Title 19 RCW and may be cited as the Motor Fuel Quality Act.

NEW SECTION. Sec. 12. This act shall take effect on July 1, 1990.

Passed the House March 5, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 103

[Senate Bill No. 6224]

SCHOOL DISTRICTS—REPAYMENT OF DISALLOWED FEDERAL EXPENDITURES

AN ACT Relating to school district financial responsibility; and adding a new section to Title 28A RCW.

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

NEW SECTION. Sec. 1. A new section is added to Title 28A RCW to read as follows:

Each school district that receives federal moneys from or through the superintendent of public instruction shall comply with applicable federal requirements and shall repay expenditures subsequently disallowed by the federal government together with such interest as may be assessed by the federal government. Once a federal disallowance determination, decision, or order becomes final respecting federal moneys expended by a school district, the superintendent of public instruction may withhold all or a portion of the annual basic education allocation amounts otherwise due and apportionable to the school district as necessary to facilitate payment of the principal and interest to the federal government. The superintendent of public instruction may pay withheld basic education allocation moneys:

(1) To the school district before the close of the biennium and following the school district's repayment of moneys due the federal government, or the school district's commitment to an acceptable repayment plan, or both; or

(2) To the federal government, subject to the reappropriation of the withheld basic education allocation, moneys for the purpose of payment to the federal government.

No withholding of basic education allocation moneys may occur under this subsection until the superintendent of public instruction has first determined that the withholding should not substantially impair the school district's financial ability to provide the basic education program offerings required by statute.

Passed the Senate February 12, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 104

[House Bill No. 2260]

MUNICIPAL RESEARCH COUNCIL

AN ACT Relating to the municipal research council; amending RCW 43.110.010 and 82.44.160; and adding a new section to chapter 43.110 RCW.

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

Sec. 1. Section 2, chapter 108, Laws of 1969 as last amended by section 1, chapter 22, Laws of 1983 and RCW 43.110.010 are each amended to read as follows:

There shall be a state agency which shall be known as the municipal research council. The council shall be composed of eighteen members. Four

members shall be appointed by the president of the senate, with equal representation from each of the two major political parties; four members shall be appointed by the speaker of the house of representatives, with equal representation from each of the two major political parties; one member shall be appointed by the governor; and the other nine members, who shall be city officials, shall be appointed by the board of directors of the association of Washington cities. Of the members appointed by the association, at least one shall be an official of a city having a population of twenty thousand or more; at least one shall be an official of a city having a population of one thousand five hundred to twenty thousand; and at least one shall be an official of a town having a population of less than one thousand five hundred.

The terms of members shall be for two years and shall not be dependent upon continuance in legislative or city office. The terms of all members except legislative members shall commence on the first day of August in every odd-numbered year. The speaker of the house of representatives and the president of the senate shall make their appointments on or before the third Monday in January in each odd-numbered year, and the terms of the members thus appointed shall commence on the third Monday of January in each odd-numbered year. ~~((Certificates of appointment of all members shall be filed in the offices of the association within ten days after the appointments are made.))~~

Council members shall receive no compensation but shall be reimbursed for travel expenses at rates in accordance with RCW 43.03.050 and 43.03.060 as now existing or hereafter amended, except that members of the council who are also members of the legislature shall be reimbursed at the rates provided by RCW 44.04.120.

NEW SECTION. Sec. 2. A new section is added to chapter 43.110 RCW to read as follows:

The municipal research council shall contract for the provision of municipal research and services to cities and towns. Contracts for municipal research and services shall be made with state agencies, educational institutions, or private consulting firms, that in the judgment of council members are qualified to provide such research and services. Contracts for staff support may be made with state agencies, educational institutions, or private consulting firms that in the judgment of the council members are qualified to provide such support.

Municipal research and services shall consist of: (1) Studying and researching municipal government and issues relating to municipal government; (2) acquiring, preparing, and distributing publications related to municipal government and issues relating to municipal government; (3) providing educational conferences relating to municipal government and issues relating to municipal government; and (4) furnishing legal, technical, consultative, and field services to cities and towns concerning planning,

public health, utility services, fire protection, law enforcement, public works, and other issues relating to municipal government.

The activities, programs, and services of the municipal research council shall be carried on, and all expenditures shall be made, in cooperation with the cities and towns of the state acting through the board of directors of the association of Washington cities, which is recognized as their official agency or instrumentality.

Sec. 3. Section 82.44.160, chapter 15, Laws of 1961 as last amended by section 7, chapter 54, Laws of 1974 ex. sess. and RCW 82.44.160 are each amended to read as follows:

Before distributing or paying moneys to the cities and towns from the general fund(~~(, as)~~) on the first day of July of each year, under the formula provided in RCW 82.44.150, the state treasurer shall(~~(, on the first day of July of each year, make an annual deduction therefrom of)~~) deduct from these moneys a sum equal to one-half of the biennial appropriation made (~~(pursuant to this section, which)~~) to the municipal research council.

The amount that is appropriated to the municipal research council shall be at least seven cents per capita of the population of all cities or towns as (~~(legally certified on that date, determined as provided in said section, which sum shall be apportioned and transmitted to the municipal research council, herein created. The municipal research council may contract with and allocate moneys to any state agency, educational institution, or private consulting firm, which in its judgment is qualified to carry on a municipal research and service program. Moneys may be utilized to match federal funds available for technical research and service programs to cities and towns. Moneys allocated shall be used for studies and research in municipal government, publications, educational, conferences, and attendance thereat, and in furnishing technical, consultative, and field services to cities and towns in problems relating to planning, public health, municipal sanitation, fire protection, law enforcement, postwar improvements, and public works, and in all matters relating to city and town government. The programs shall be carried on and all expenditures shall be made in cooperation with the cities and towns of the state acting through the Association of Washington Cities by its board of directors which is hereby recognized as their official agency or instrumentality:~~

Funds) last determined by the office of financial management. Moneys appropriated to the municipal research council shall be kept in the treasury in the general fund(~~(, and)~~). Expenditures of the municipal research council, including council expenses and contract payments, shall be disbursed by warrant or check (~~(to contracting parties on)~~) from invoices or vouchers certified by the chairman of the municipal research council or (~~(his)~~) a designee. Payments to public agencies may be made in advance of actual work contracted for, in the discretion of the council.

Any moneys remaining unexpended or uncontracted for by the municipal research council at the end of any fiscal biennium shall be returned to the general fund and be paid to cities and towns under the provisions of RCW 82.44.150.

Passed the House February 2, 1990.

Passed the Senate February 26, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 105

[Substitute Senate Bill No. 6348]

TEMPORARY-USE SPARE TIRES

AN ACT Relating to temporary-use spare tires; and amending RCW 46.37.420, 46.37.425, and 46.61.455.

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

Sec. 1. Section 46.37.420, chapter 12, Laws of 1961 as last amended by section 721, chapter 330, Laws of 1987 and RCW 46.37.420 are each amended to read as follows:

(1) It is unlawful to operate a vehicle upon the public highways of this state unless it is completely equipped with pneumatic rubber tires except vehicles equipped with temporary-use spare tires that meet federal standards that are installed and used in accordance with the manufacturer's instructions.

(2) No tire on a vehicle moved on a highway may have on its periphery any block, flange, cleat, or spike or any other protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it is permissible to use farm machinery with tires having protuberances that will not injure the highway, and except also that it is permissible to use tire chains or metal studs imbedded within the tire of reasonable proportions and of a type conforming to rules adopted by the state patrol, upon any vehicle when required for safety because of snow, ice, or other conditions tending to cause a vehicle to skid. It is unlawful to use metal studs imbedded within the tire between April 1st and November 1st. The state department of transportation may, from time to time, determine additional periods in which the use of tires with metal studs imbedded therein is lawful.

(3) The state department of transportation and local authorities in their respective jurisdictions may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of the movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this section.

(4) Tires with metal studs imbedded therein may be used between November 1st and April 1st upon school buses and fire department vehicles, any law or regulation to the contrary notwithstanding.

Sec. 2. Section 3, chapter 77, Laws of 1971 as last amended by section 722, chapter 330, Laws of 1987 and RCW 46.37.425 are each amended to read as follows:

No person shall drive or move or cause to be driven or moved any vehicle, the tires of which have contact with the driving surface of the road, subject to registration in this state, upon the public highways of this state unless such vehicle is equipped with tires in safe operating condition in accordance with requirements established by this section or by the state patrol.

The state patrol shall promulgate rules and regulations setting forth requirements of safe operating condition of tires capable of being employed by a law enforcement officer by visual inspection of tires mounted on vehicles including visual comparison with simple measuring gauges. These rules shall include effects of tread wear and depth of tread.

A tire shall be considered unsafe if it has:

(1) Any ply or cord exposed either to the naked eye or when cuts or abrasions on the tire are probed; or

(2) Any bump, bulge, or knot, affecting the tire structure; or

(3) Any break repaired with a boot; or

(4) A tread depth of less than $2/32$ of an inch measured in any two major tread grooves at three locations equally spaced around the circumference of the tire, or for those tires with tread wear indicators, a tire shall be considered unsafe if it is worn to the point that the tread wear indicators contact the road in any two major tread grooves at three locations equally spaced around the circumference of the tire; or

(5) A legend which indicates the tire is not intended for use on public highways such as, "not for highway use" or "for racing purposes only"; or

(6) Such condition as may be reasonably demonstrated to render it unsafe; or

(7) If not matched in tire size designation, construction, and profile to the other tire and/or tires on the same axle, except for temporary-use spare tires that meet federal standards that are installed and used in accordance with the manufacturer's instructions.

No person, firm, or corporation shall sell any vehicle for use on the public highways of this state unless the vehicle is equipped with tires that are in compliance with the provisions of this section. If the tires are found to be in violation of the provisions of this section, the person, firm, or corporation selling the vehicle shall cause such tires to be removed from the vehicle and shall equip the vehicle with tires that are in compliance with the provisions of this section.

It is a traffic infraction for any person to operate a vehicle on the public highways of this state, or to sell a vehicle for use on the public highways of this state, which is equipped with a tire or tires in violation of the provisions of this section or the rules and regulations promulgated by the state patrol hereunder: **PROVIDED, HOWEVER,** That if the violation relates to items (1) to (7) inclusive of this section then the condition or defect must be such that it can be detected by a visual inspection of tires mounted on vehicles, including visual comparison with simple measuring gauges.

Sec. 3. Section 46.48.110, chapter 12, Laws of 1961 and RCW 46.61-.455 are each amended to read as follows:

Except for vehicles equipped with temporary-use spare tires that meet federal standards, it shall be unlawful to operate any vehicle equipped or partly equipped with solid rubber tires or hollow center cushion tires, or to operate any combination of vehicles any part of which is equipped or partly equipped with solid rubber tires or hollow center cushion tires, so long as solid rubber tires or hollow center cushion tires may be used under the provisions of this title, upon any public highway of this state at a greater rate of speed than ten miles per hour: PROVIDED, That the temporary-use spare tires are installed and used in accordance with the manufacturer's instructions.

Passed the Senate February 6, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 106

[House Bill No. 2312]

STATE FUNDS—INVESTMENT OF

AN ACT Relating to investment of state funds; and amending RCW 43.250.020, 43.250-.030, 43.250.060, 43.250.070, and 43.84.090.

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

Sec. 1. Section 2, chapter 294, Laws of 1986 and RCW 43.250.020 are each amended to read as follows:

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

(1) "Public funds investment account" or "investment pool" means the aggregate of all funds (~~(from political subdivisions)~~) as defined in subsection (4) of this section that are placed in the custody of the state treasurer for investment and reinvestment.

(2) "Political subdivision" means any county, city, town, municipal corporation, political subdivision, or special purpose taxing district in the state.

(3) "Local government official" means any officer or employee of a political subdivision who has been designated by statute or by local charter, ordinance, or resolution as the officer having the authority to invest the funds of the political subdivision. However, the county treasurer shall be deemed the only local government official for all political subdivisions for which the county treasurer has exclusive statutory authority to invest the funds thereof.

(4) "Funds" means:

(a) Public funds under the control of or in the custody of any local government official by virtue of the official's authority that are not immediately required to meet current demands;

(b) State funds that are the proceeds of bonds, notes, or other evidences of indebtedness authorized by the state finance committee under chapter 39.42 RCW or payments pursuant to financing contracts under chapter 39.94 RCW, when the investments are made in order to comply with the Internal Revenue Code of 1986, as amended.

Sec. 2. Section 3, chapter 294, Laws of 1986 and RCW 43.250.030 are each amended to read as follows:

There is created a trust fund in the state treasury to be known as the public funds investment account. All moneys remitted (~~(by local government officials)~~) under this chapter shall be deposited in this account. The earnings on any balances in the public funds investment account shall be credited to the public funds investment account, notwithstanding RCW 43.84.090.

Sec. 3. Section 6, chapter 294, Laws of 1986 and RCW 43.250.060 are each amended to read as follows:

The state treasurer shall by rule prescribe the time periods for investments in the investment pool and the procedure for withdrawal of funds from the investment pool. The state treasurer shall promulgate such other rules as are deemed necessary for the efficient operation of the investment pool. The rules shall also provide for the administrative expenses of the investment pool, including repayment of the initial administrative costs financed out of the appropriation included in (~~(this act)~~) chapter 294, Laws of 1986, to be paid from the pool's earnings and for the interest earnings in excess of the expenses to be credited or paid to (~~(the political subdivisions participating)~~) participants in the pool. The state treasurer may deduct the amounts necessary to reimburse the treasurer's office for the actual expenses the office incurs and to repay any funds appropriated and expended for the initial administrative costs of the pool. Any credits or payments to (~~(political subdivisions)~~) the participants shall be calculated and made in a manner which equitably reflects the differing amounts of the (~~(political subdivisions¹)~~) participants' respective deposits in the investment pool fund and the differing periods of time for which the amounts were placed in the investment pool.

Sec. 4. Section 7, chapter 294, Laws of 1986 and RCW 43.250.070 are each amended to read as follows:

The state treasurer shall keep a separate account for each (~~political subdivision~~) participant having funds in the investment pool. Each separate account shall record the individual amounts deposited in the investment pool, the date of withdrawals, and the earnings credited or paid (~~to the political subdivision~~). The state treasurer shall report monthly the status of the respective account to each (~~local government official~~) participant having funds in the pool during the previous month.

Sec. 5. Section 43.84.090, chapter 8, Laws of 1965 as last amended by section 5, chapter 233, Laws of 1985 and RCW 43.84.090 are each amended to read as follows:

Except as otherwise provided by RCW 43.250.030 and 67.40.025, twenty percent of all income received from such investments shall be deposited in the state general fund.

Passed the House March 6, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 107

[Substitute House Bill No. 2708]

PUBLIC UTILITY DISTRICTS—SEWER SYSTEM INSPECTIONS

AN ACT Relating to on-site sewage and septic system inspection and maintenance by public utility districts; and adding a new section to chapter 54.16 RCW.

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

NEW SECTION. Sec. 1. A new section is added to chapter 54.16 RCW to read as follows:

A public utility district as authorized by a county board of health, may perform operation and maintenance, including inspections, of on-site sewage disposal facilities, alternate sewage disposal facilities, approved septic tanks or approved septic tank systems, other facilities and systems for the collection, interception, treatment, and disposal of wastewater, and for the control and protection, preservation, and rehabilitation of surface and underground waters. Those costs associated with the maintenance of private on-site sewage systems may be charged by the public utility district to the system owner.

Passed the House February 12, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 108

[House Bill No. 2753]

STATE ROUTE 128—REROUTING OF

AN ACT Relating to state highway routes; and amending RCW 47.17.255 and 47.17.375.

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

Sec. 1. Section 52, chapter 51, Laws of 1970 ex. sess. and RCW 47.17.255 are each amended to read as follows:

A state highway to be known as state route number 128 is established as follows:

Beginning at a junction with state route number 12 at Pomeroy, thence southeasterly to Peola, thence northeasterly ~~((to a junction with state route number 12 in the vicinity west of Clarkston))~~ and easterly by way of the Red Wolf crossing to the Idaho state line.

Sec. 2. Section 76, chapter 51, Laws of 1970 ex. sess. as amended by section 133, chapter 7, Laws of 1984 and RCW 47.17.375 are each amended to read as follows:

A state highway to be known as state route number 193 is established as follows:

Beginning at a junction with state route number ~~((12 in the vicinity of Clarkston))~~ 128 in the vicinity of the Red Wolf crossing, thence westerly and northerly by way of Steptoe canyon to a junction of state route number 195 in the vicinity of Colton. Until such time as state route number 193 between Colton and Clarkston is actually constructed on the location adopted by the department, no existing county roads may be maintained or improved by the department as a temporary route of state route number 193.

Passed the House February 9, 1990.

Passed the Senate February 28, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 109

[House Bill No. 2989]

FREIGHT BROKERS AND FORWARDERS—REGULATION—COMPLIANCE DATE EXTENDED

AN ACT Relating to freight brokers and forwarders; amending RCW 81.80.430; and declaring an emergency.

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

Sec. 1. Section 2, chapter 31, Laws of 1988 as amended by section 2, chapter 60, Laws of 1989 and RCW 81.80.430 are each amended to read as follows:

(1) After June 30, 1991, each broker or forwarder shall file with the commission and keep in effect, a surety bond or deposit of satisfactory security, in a sum to be determined by the commission, but not less than five thousand dollars, conditioned upon such broker or forwarder making compensation to shippers, consignees, and carriers for all moneys belonging to them and coming into the broker's or forwarder's possession in connection with the transportation service.

(2) After June 30, 1991, it is unlawful for a broker or forwarder to conduct business as such in this state without first securing appropriate authority from the Interstate Commerce Commission, if such authority is required, and registering with the Washington utilities and transportation commission. The commission shall grant such registration without hearing, upon application and payment of the appropriate filing fee prescribed by this chapter for other applications for operating authority.

(3) Failure to file the bond or deposit the security is sufficient cause for refusal of the commission to grant the application for a permit or registration. Failure to maintain the bond or the deposit of security is sufficient cause for cancellation of a permit or registration.

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

Passed the House March 3, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 110

[Second Substitute Senate Bill No. 5845]

GAME FISH PRODUCTION—DOUBLING BY THE YEAR 2000

AN ACT Relating to anadromous and resident game fish production; adding a new section to chapter 77.12 RCW; and creating new sections.

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

NEW SECTION. Sec. 1. The legislature finds that the anadromous and resident game fish resource of the state can be greatly increased to benefit recreational fishermen and the economy of the state. Investments in the increase of anadromous and resident game fish stocks will provide benefits many times the cost of the program and will act as a catalyst for many

additional benefits in the tourism and associated industries, while enhancing the livability of the state.

NEW SECTION. Sec. 2. A new section is added to chapter 77.12 RCW to read as follows:

The legislature hereby directs the department of wildlife to determine the feasibility and cost of doubling the state-wide game fish production by the year 2000. The department shall seek to equalize the effort and investment expended on anadromous and resident game fish programs. The department of wildlife shall provide the legislature with a specific plan for legislative approval that will outline the feasibility of increasing game fish production by one hundred percent over current levels by the year 2000. The plan shall contain specific provisions to increase both hatchery and naturally spawning game fish to a level that will support the production goal established in this section consistent with wildlife commission policies. Steelhead trout, searun cutthroat trout, resident trout, and warmwater fish producing areas of the state shall be included in the plan. The department of wildlife shall provide the plan to the house of representatives and senate ways and means, environment and natural resources, environmental affairs, fisheries and wildlife, and natural resources committees by December 31, 1990.

The plan shall include the following critical elements:

- (1) Methods of determining current catch and production, and catch and production in the year 2000;
- (2) Methods of involving fishing groups, including Indian tribes, in a cooperative manner;
- (3) Methods for using low capital cost projects to produce game fish as inexpensively as possible;
- (4) Methods for renovating and modernizing all existing hatcheries and rearing ponds to maximize production capability;
- (5) Methods for increasing the productivity of natural spawning game fish;
- (6) Application of new technology to increase hatchery and natural productivity;
- (7) Analysis of the potential for private contractors to produce game fish for public fisheries;
- (8) Methods to optimize public volunteer efforts and cooperative projects for maximum efficiency;
- (9) Methods for development of trophy game fish fisheries;
- (10) Elements of coordination with the Pacific Northwest Power Council programs to ensure maximum Columbia river benefits;
- (11) The role that should be played by private consulting companies in developing and implementing the plan;
- (12) Coordination with federal fish and wildlife agencies, Indian tribes, and department of fisheries fish production programs;

- (13) Future needs for game fish predator control measures;
- (14) Development of disease control measures;
- (15) Methods for obtaining access to waters currently not available to anglers; and
- (16) Development of research programs to support game fish management and enhancement programs.

The department of wildlife, in cooperation with the department of revenue, shall assess various funding mechanisms and make recommendations to the legislature in the plan. The department of wildlife, in cooperation with the department of trade and economic development, shall prepare an analysis of the economic benefits to the state that will occur when the game fish production is increased by one hundred percent in the year 2000.

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, 1990, in the omnibus appropriations act, this act shall be null and void.

Passed the Senate March 3, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 111

[Senate Bill No. 6396]

DEEDS OF TRUST

AN ACT Relating to deeds of trust; and amending RCW 61.24.030 and 61.24.100.

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

Sec. 1. Section 3, chapter 74, Laws of 1965 as last amended by section 2, chapter 352, Laws of 1987 and RCW 61.24.030 are each amended to read as follows:

It shall be requisite, to foreclosure under this chapter:

- (1) That the deed of trust contains a power of sale;
- (2) That the deed of trust provides in its terms that the real property conveyed is not used principally for agricultural or farming purposes;
- (3) That a default has occurred in the obligation secured or a covenant of the grantor, which by the terms of the deed of trust makes operative the power to sell;
- (4) That no action commenced by the beneficiary of the deed of trust or the beneficiary's successor is now pending to seek satisfaction of an obligation secured by the deed of trust in any court by reason of the grantor's default on the obligation secured: PROVIDED, That (a) the seeking of the appointment of a receiver shall not constitute an action for purposes of this chapter; and (b) if a receiver is appointed, the grantor shall be entitled to any rents or profits derived from property subject to a homestead as defined

in RCW (~~(6.12.010)~~) 6.13.010. If the deed of trust was not granted to secure an obligation incurred primarily for personal, family, or household purposes, this subsection shall not apply to actions brought to enforce any other lien or security interest granted to secure the obligation secured by the deed of trust being foreclosed;

(5) That the deed of trust has been recorded in each county in which the land or some part thereof is situated; and

(6) That at least thirty days before notice of sale shall be recorded, transmitted or served, written notice of default shall be transmitted by the beneficiary or trustee to the grantor or any successor in interest at his last known address by both first class and either registered or certified mail, return receipt requested, and the beneficiary or trustee shall cause to be posted in a conspicuous place on said premises, a copy of said notice, or personally served on the grantor or his successor in interest. This notice shall contain the following information:

(a) A description of the property which is then subject to the deed of trust;

(b) The book and the page of the book of records wherein the deed of trust is recorded;

(c) That the beneficiary has declared the grantor or any successor in interest to be in default, and a concise statement of the default alleged;

(d) An itemized account of the amount or amounts in arrears if the default alleged is failure to make payments;

(e) An itemized account of all other specific charges, costs or fees that the grantor is or may be obliged to pay to reinstate the deed of trust before the recording of the notice of sale;

(f) The total of subparagraphs (d) and (e) of this subsection, designated clearly and conspicuously as the amount necessary to reinstate the note and deed of trust before the recording of the notice of sale;

(g) That failure to cure said alleged default within thirty days of the date of mailing of the notice, or if personally served, within thirty days of the date of personal service thereof, may lead to recordation, transmittal and publication of a notice of sale, and that the property described in subparagraph (a) of this subsection may be sold at public auction at a date no less than one hundred twenty days in the future;

(h) That the effect of the recordation, transmittal and publication of a notice of sale will be to (i) increase the costs and fees and (ii) publicize the default and advertise the grantor's property for sale;

(i) That the effect of the sale of the grantor's property by the trustee will be to deprive the grantor or his successor in interest and all those who hold by, through or under him of all their interest in the property described in subsection (a);

(j) That the grantor or any successor in interest has recourse to the courts pursuant to RCW 61.24.130 to contest the alleged default on any proper ground.

Sec. 2. Section 10, chapter 74, Laws of 1965 and RCW 61.24.100 are each amended to read as follows:

Foreclosure, as in this chapter provided, shall satisfy the obligation secured by the deed of trust foreclosed, regardless of the sale price or fair value, and no deficiency decree or other judgment shall thereafter be obtained on such obligation, except that if such obligation was not incurred primarily for personal, family, or household purposes, such foreclosure shall not preclude any judicial or nonjudicial foreclosure of any other deeds of trust, mortgages, security agreements, or other security interests or liens covering any real or personal property granted to secure such obligation. Where foreclosure is not made under this chapter, the beneficiary shall not be precluded from enforcing the security as a mortgage nor from enforcing the obligation by any means provided by law.

Passed the Senate February 6, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 112

[Senate Bill No. 6528]

VESSEL PILOT'S LICENSE—QUALIFICATIONS

AN ACT Relating to qualifications for a vessel pilots' license; and amending RCW 88.16.090.

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

Sec. 1. Section 8, chapter 18, Laws of 1935 as last amended by section 2, chapter 264, Laws of 1987 and RCW 88.16.090 are each amended to read as follows:

(1) A person may pilot any vessel subject to the provisions of this chapter on waters covered by this chapter only if appointed and licensed to pilot such vessels on said waters under and pursuant to the provisions of this chapter.

(2) A person is eligible to be appointed a pilot if the person is a citizen of the United States, over the age of twenty-five years and under the age of seventy years, a resident of the state of Washington at the time of appointment and only if the pilot applicant holds as a minimum, a United States government license as a master of ~~((freight and towing vessels not more than one thousand gross tons (inspected vessel)))~~ ocean or near coastal steam or motor vessels of not more than one thousand six hundred gross tons or as a master of inland steam or motor vessels of not more than one

thousand six hundred gross tons, such license to have been held by the applicant for a period of at least two years prior to taking the Washington state pilotage examination and a first class United States endorsement without restrictions on that license to pilot in the pilotage districts for which the pilot applicant desires to be licensed, and if the pilot applicant meets such other qualifications as may be required by the board.

(3) Pilots shall be licensed hereunder for a term of five years from and after the date of the issuance of their respective state licenses. Such licenses shall thereafter be renewed as of course, unless the board shall withhold same for good cause. Each pilot shall pay to the state treasurer an annual license fee established by the board of pilotage commissioners pursuant to chapter 34.05 RCW, but not to exceed one thousand five hundred dollars, to be placed in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(4) Pilot applicants shall be required to pass a written and oral examination administered and graded by the board which shall test such applicants on this chapter, the rules of the board, local harbor ordinances, and such other matters as may be required to compliment the United States examinations and qualifications. The board shall conduct the examination on a regular date, as prescribed by rule, at least once every two years.

(5) The board shall have developed five examinations and grading sheets for the Puget Sound pilotage district, and two for each other pilotage district, for the testing and grading of pilot applicants. The examinations shall be administered to pilot applicants on a random basis and shall be updated as required to reflect changes in law, rules, policies, or procedures. The board may appoint a special independent examination committee or may contract with a firm knowledgeable and experienced in the development of professional tests for development of said examinations. Active licensed state pilots may be consulted for the general development of examinations but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination development committee it is authorized to pay the members of said committee the same compensation and travel expenses as received by members of the board. When grading examinations the board shall carefully follow the grading sheet prepared for that examination. The board shall develop a "sample examination" which would tend to indicate to an applicant the general types of questions on pilot examinations, but such sample questions shall not appear on any actual examinations. Any person who willfully gives advance knowledge of information contained on a pilot examination is guilty of a gross misdemeanor.

(6) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the

board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that pilots licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or candidate is fully able to carry out the duties of a pilot under this chapter.

(7) The board shall prescribe, pursuant to chapter 34.05 RCW, a number of familiarization trips, between a minimum number of twenty-five and a maximum of one hundred, which pilot applicants must make in the pilotage district for which they desire to be licensed. Familiarization trips any particular applicant must make are to be based upon the applicant's vessel handling experience.

(8) The board may prescribe vessel simulator training for a pilot applicant, or pilot subject to RCW 88.16.105, as it deems appropriate, taking into consideration the economic cost of such training, to enhance that person's ability to perform pilotage duties under this chapter.

(9) The board shall prescribe, pursuant to chapter 34.05 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims, and records of familiarization trips of pilot candidates. Willful misrepresentation of such required information by a pilot candidate shall result in disqualification of the candidate.

Passed the Senate March 5, 1990.

Passed the House February 27, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 113

[Senate Bill No. 6866]

FIELD AND TURF GRASS SEED PRODUCTION RESEARCH FEES

AN ACT Relating to research for field and turf grass seed production; and amending RCW 70.94.656.

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

Sec. 1. Section 7, chapter 193, Laws of 1973 1st ex. sess. as amended by section 69, chapter 57, Laws of 1985 and RCW 70.94.656 are each amended to read as follows:

It is hereby declared to be the policy of this state that strong efforts should be made to minimize adverse effects on air quality from the open burning of field and turf grasses grown for seed. To such end this section is intended to promote the development of economical and practical alternate

agricultural practices to such burning, and to provide for interim regulation of such burning until practical alternates are found.

(1) The department shall approve of a study or studies for the exploration and identification of economical and practical alternate agricultural practices to the open burning of field and turf grasses grown for seed. Prior to the issuance of any permit for such burning under RCW 70.94.650, there shall be collected a fee not to exceed ~~((fifty cents))~~ one dollar per acre of crop to be burned. Any such fees received by any authority shall be transferred to the department of ecology. The department of ecology shall deposit all such acreage fees in a special grass seed burning research account, hereby created, in the state treasury. All earnings of investments of balances in the special grass seed burning research account shall be credited to the general fund. The department shall allocate moneys annually from this account for the support of any approved study or studies as provided for in this subsection. For the conduct of any such study or studies, the department may contract with public or private entities: PROVIDED, That whenever the department of ecology shall conclude that sufficient reasonably available alternates to open burning have been developed, and at such time as all costs of any studies have been paid, the grass seed burning research account shall be dissolved, and any money remaining therein shall revert to the general fund.

(2) Whenever on the basis of information available to it, the department after public hearings have been conducted wherein testimony will be received and considered from interested parties wishing to testify shall conclude that any procedure, program, technique, or device constitutes a practical alternate agricultural practice to the open burning of field or turf grasses grown for seed, the department shall, by order, certify approval of such alternate. Thereafter, in any case which any such approved alternate is reasonably available, the open burning of field and turf grasses grown for seed shall be disallowed and no permit shall issue therefor.

(3) Until approved alternates become available, the department or the authority may limit the number of acres on a pro rata basis among those affected for which permits to burn will be issued in order to effectively control emissions from this source.

(4) Permits issued for burning of field and turf grasses may be conditioned to minimize emissions insofar as practical, including denial of permission to burn during periods of adverse meteorological conditions.

Passed the Senate February 13, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 19, 1990.

Filed in Office of Secretary of State March 19, 1990.

CHAPTER 114

[Substitute House Bill No. 2390]

HAZARDOUS SUBSTANCES AND WASTE REDUCTION

AN ACT Relating to the reduction of hazardous substances and waste; amending RCW 70.95C.010, 70.95C.020, 70.95C.030, and 70.95C.040; adding a new section to chapter 70.95 RCW; adding new sections to chapter 70.95C RCW; adding a new chapter to Title 70 RCW; repealing RCW 70.105A.010, 70.105A.020, 70.105A.030, 70.105A.040, 70.105A.050, 70.105A.060, 70.105A.070, 70.105A.080, 70.105A.090, 70.105A.900, and 70.105A.905; and declaring an emergency.

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

Sec. 1. Section 1, chapter 177, Laws of 1988 and RCW 70.95C.010 are each amended to read as follows:

The legislature finds that land disposal and incineration of solid and hazardous waste can be both harmful to the environment and costly to those who must dispose of the waste. In order to address this problem in the most cost-effective and environmentally sound manner, and to implement the highest waste management priority as articulated in RCW 70.95.010 and 70.105.150, public and private efforts should focus on reducing the generation of waste. Waste reduction can be achieved by encouraging voluntary efforts to redesign industrial, commercial, production, and other processes to result in the reduction or elimination of waste byproducts and to maximize the in-process reuse or reclamation of valuable spent material.

In the interest of protecting the public health, safety, and the environment, the legislature declares that it is the policy of the state of Washington to encourage reduction in the use of hazardous substances and reduction in the generation of hazardous waste whenever economically and technically practicable.

The legislature finds that hazardous wastes are generated by numerous different sources including, but not limited to, large and small business, households, and state and local government. The legislature further finds that a goal against which efforts at waste reduction may be measured is essential for an effective hazardous waste reduction program. The pacific northwest hazardous waste advisory council has endorsed a goal of reducing, through hazardous substance use reduction and waste reduction techniques, the generation of hazardous waste by fifty percent by 1995. The legislature adopts this as a policy goal for the state of Washington. The legislature recognizes that many individual businesses have already reduced the generation of hazardous waste through appropriate hazardous waste reduction techniques. The legislature also recognizes that there are some basic industrial processes which by their nature have limited potential for significantly reducing the use of certain raw materials or substantially reducing

the generation of hazardous wastes. Therefore, the goal of reducing hazardous waste generation by fifty percent cannot be applied as a regulatory requirement.

Sec. 2. Section 2, chapter 177, Laws of 1988 and RCW 70.95C.020 are each amended to read as follows:

As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise (the definitions in this section apply throughout this chapter).

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

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

(3) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(5) and shall specifically include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW.

(4) "EPA/state identification number" means the number assigned by the EPA (environmental protection agency) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility.

(5) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(6) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW.

(6) "Fee" means the annual hazardous waste fees imposed under sections 12 and 13 of this act.

(7) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation.

(8) "Hazardous substance" means any hazardous substance listed as a hazardous substance as of the effective date of this section pursuant to section 313 of Title III of the Superfund Amendments and Reauthorization Act, any other substance determined by the director by rule to present a threat to human health or the environment, and all ozone depleting compounds as defined by the Montreal Protocol of October 1987.

(9) (a) "Hazardous substance use reduction" means the reduction, avoidance, or elimination of the use or production of hazardous substances without creating substantial new risks to human health or the environment.

(b) "Hazardous substance use reduction" includes proportionate changes in the usage of hazardous substances as the usage of a hazardous substance or hazardous substances changes as a result of production changes or other business changes.

(10) "Hazardous substance user" means any facility required to report under section 313 of Title III of the Superfund Amendments and Reauthorization Act, except for those facilities which only distribute or use fertilizers or pesticides intended for commercial agricultural applications.

(11) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes, but does not include radioactive wastes or a substance composed of both radioactive and hazardous components and does not include any hazardous waste generated as a result of a remedial action under state or federal law.

(12) "Hazardous waste generator" means any person generating hazardous waste regulated by the department.

(13) "Office" means the office of waste reduction.

~~((4))~~ (14) "Plan" means the plan provided for in section 6 of this act.

(15) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government, including any agency or officer thereof, and any Indian tribe or authorized tribal organization.

(16) "Process" means all industrial, commercial, production, and other processes that result in the generation of waste.

~~((5))~~ (17) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include: (a) Use constituting disposal; (b) incineration; or (c) use as a fuel.

(18) "Recycling" means reusing waste materials and extracting valuable materials from a waste stream. Recycling does not include burning for energy recovery.

(19) "Treatment" means the physical, chemical, or biological processing of waste to render it completely innocuous, produce a recyclable by-product, reduce toxicity, or substantially reduce the volume of material requiring disposal as described in the priorities established in RCW 70.105-.150. Treatment does not include incineration.

(20) "Waste" means any solid waste as defined under RCW 70.95.030, any hazardous waste (~~as defined under RCW 70.105.010(15), any hazardous substance as defined under RCW 70.105.010(14)~~), any air contaminant as defined under RCW 70.94.030, and any organic or inorganic matter that shall cause or tend to cause water pollution as defined under RCW 90.48.020.

~~((6))~~ (21) "Waste generator" means any individual, business, government agency, or any other organization that generates waste.

~~((7))~~ (22) "Waste reduction" means all in-plant practices that reduce, avoid, or eliminate the (~~amount or toxicity of waste generated~~) generation of wastes or the toxicity of wastes, prior to generation, without creating substantial new risks to human health or the environment. As used in sections 6 through 10 of this 1990 act, "waste reduction" refers to hazardous waste only.

Sec. 3. Section 3, chapter 177, Laws of 1988 and RCW 70.95C.030 are each amended to read as follows:

(1) There is established in the department an office of waste reduction. The office shall use its authorities to encourage the voluntary reduction of ~~((waste))~~ hazardous substance usage and waste generation by waste generators and hazardous substance users. The office shall prepare and submit a quarterly progress report to the director and the director shall submit an annual progress report to the appropriate environmental standing committees of the legislature beginning December 31, 1988.

(2) The office shall be the coordinating center for all state agency programs that provide technical assistance to waste generators and hazardous substance users and shall serve as the state's lead agency and promoter for such programs. In addition to this coordinating function, the office shall encourage hazardous substance use reduction and waste reduction by:

(a) Providing for the rendering of advice and consultation to waste generators and hazardous substance users on hazardous substance use reduction and waste reduction techniques, including assistance in preparation of plans provided for in section 6 of this act;

(b) Sponsoring or co-sponsoring with public or private organizations technical workshops and seminars on waste reduction and hazardous substance use reduction;

(c) Administering a waste reduction and hazardous substance use reduction data base and hotline providing comprehensive referral services to waste generators and hazardous substance users;

(d) Administering a waste reduction and hazardous substance use reduction research and development program;

(e) Coordinating a waste reduction and hazardous substance use reduction public education program that includes the utilization of existing publications from public and private sources, as well as publishing necessary new materials on waste reduction;

(f) Recommending to institutions of higher education in the state courses and curricula in areas related to waste reduction and hazardous substance use reduction; and

(g) ~~((Requiring energy and incineration facilities to retain records of monitoring and operating data for a minimum of ten years after permanent closure of the facility))~~ Operating an intern program in cooperation with institutions of higher education and other outside resources to provide technical assistance on hazardous substance use reduction and waste reduction techniques and to carry out research projects as needed within the office.

NEW SECTION. Sec. 4. A new section is added to chapter 70.95 RCW to read as follows:

The department shall require energy recovery and incineration facilities to retain records of monitoring and operation data for a minimum of ten years after permanent closure of the facility.

Sec. 5. Section 4, chapter 177, Laws of 1988 and RCW 70.95C.040 are each amended to read as follows:

(1) The office shall establish a waste reduction and hazardous substance use reduction consultation program to be coordinated with other state waste reduction and hazardous substance use reduction consultation programs.

(2) The director may grant a request by any waste generator or hazardous substance user for advice and consultation on waste reduction and hazardous substance use reduction techniques and assistance in preparation or modification of a plan, executive summary, or annual progress report, or assistance in the implementation of a plan required by section 6 of this act. Pursuant to a request ~~((the director may visit any))~~ from a facility such as a business, governmental entity, or other process site in the state, the director may visit the facility making the request for the purposes of observing hazardous substance use and the waste-generating process, obtaining information relevant to waste reduction and hazardous substance use reduction, rendering advice, and making recommendations. No such visit may be regarded as an inspection or investigation, and no notices or citations may be issued, or civil penalty be assessed, upon such a visit. ~~((No))~~ A representative of the director ((designated to render)) providing advisory or consultative services under this section may not have any enforcement authority.

(3) Consultation and advice given under this section shall be limited to the matters specified in the request and shall include specific techniques of waste reduction and hazardous substance use reduction tailored to the relevant process. In granting any request for advisory or consultative services, the director may provide for an alternative means of affording consultation and advice other than on-site consultation.

(4) Any proprietary information obtained by the director while carrying out the duties required under this section shall remain confidential and shall not be publicized or become part of the data base established under RCW 70.95C.060 without written permission of the requesting party.

NEW SECTION. Sec. 6. A new section is added to chapter 70.95C RCW to read as follows:

(1) Each hazardous waste generator who generates more than two thousand six hundred forty pounds of hazardous waste per year and each hazardous substance user, except for those facilities that are primarily permitted treatment, storage, and disposal facilities or recycling facilities, shall prepare a plan for the voluntary reduction of the use of hazardous substances and the generation of hazardous wastes. Hazardous waste generated and recycled for beneficial use, including initial amount of hazardous substances introduced into a process and subsequently recycled for beneficial use, shall not be used in the calculation of hazardous waste generated for purposes of this section. The department may develop reporting requirements, consistent with existing reporting, to establish recycling for beneficial use under this section. A person with multiple interrelated facilities where

the processes in the facilities are substantially similar, may prepare a single plan covering one or more of those facilities.

(2) Each user or generator required to write a plan is encouraged to advise its employees of the planning process and solicit comments or suggestions from its employees on hazardous substance use and waste reduction options.

(3) The department shall adopt by April 1, 1991, rules for preparation of plans. The rules shall require the plan to address the following options, according to the following order of priorities: Hazardous substance use reduction, waste reduction, recycling, and treatment. In the planning process, first consideration shall be given to hazardous substance use reduction and waste reduction options. Consideration shall be given next to recycling options. Recycling options may be considered only after hazardous substance use reduction options and waste reduction options have been thoroughly researched and shown to be inappropriate. Treatment options may be considered only after hazardous substance use reduction, waste reduction, and recycling options have been thoroughly researched and shown to be inappropriate. Documentation of the research shall be available to the department upon request. The rules shall also require the plans to discuss the hazardous substance use reduction, waste reduction, and closed loop recycling options separately from other recycling and treatment options. All plans shall be written in conformance with the format prescribed in the rules adopted under this section. The rules shall require the plans to include, but not be limited to:

(a) A written policy articulating management and corporate support for the plan and a commitment to implementing planned activities and achieving established goals;

(b) The plan scope and objectives;

(c) Analysis of current hazardous substance use and hazardous waste generation, and a description of current hazardous substance use reduction, waste reduction, recycling, and treatment activities;

(d) An identification of further hazardous substance use reduction, waste reduction, recycling, and treatment opportunities, and an analysis of the amount of hazardous substance use reduction and waste reduction that would be achieved, and the costs. The analysis of options shall demonstrate that the priorities provided for in this section have been followed;

(e) A selection of options to be implemented in accordance with the priorities established in this section;

(f) An analysis of impediments to implementing the options. Impediments that shall be considered acceptable include, but are not limited to: Adverse impacts on product quality, legal or contractual obligations, economic practicality, and technical feasibility;

(g) A written policy stating that in implementing the selected options, whenever technically and economically practicable, risks will not be shifted from one part of a process, environmental media, or product to another;

(h) Specific performance goals in each of the following categories, expressed in numeric terms:

(i) Hazardous substances to be reduced or eliminated from use;

(ii) Wastes to be reduced or eliminated through waste reduction techniques;

(iii) Materials or wastes to be recycled; and

(iv) Wastes to be treated;

If the establishment of numeric performance goals is not practicable, the performance goals shall include a clearly stated list of objectives designed to lead to the establishment of numeric goals as soon as is practicable. Goals shall be set for a five-year period from the first reporting date;

(i) A description of how the wastes that are not recycled or treated and the residues from recycling and treatment processes are managed may be included in the plan;

(j) Hazardous substance use and hazardous waste accounting systems that identify hazardous substance use and waste management costs and factor in liability, compliance, and oversight costs;

(k) A financial description of the plan;

(l) Personnel training and employee involvement programs;

(m) A five-year plan implementation schedule;

(n) Documentation of hazardous substance use reduction and waste reduction efforts completed before or in progress at the time of the first reporting date; and

(o) An executive summary of the plan, which shall include, but not be limited to:

(i) The information required by (c), (e), (h), and (n) of this subsection; and

(ii) A summary of the information required by (d) and (f) of this subsection.

(4) Upon completion of a plan, the owner, chief executive officer, or other person with the authority to commit management to the plan shall sign and submit an executive summary of the plan to the department.

(5) Plans shall be completed and executive summaries submitted in accordance with the following schedule:

(a) Hazardous waste generators who generated more than fifty thousand pounds of hazardous waste in calendar year 1991 and hazardous substance users who were required to report in 1991, by September 1, 1992;

(b) Hazardous waste generators who generated between seven thousand and fifty thousand pounds of hazardous waste in calendar year 1992 and hazardous substance users who were required to report for the first time in 1992, by September 1, 1993;

(c) Hazardous waste generators who generated between two thousand six hundred forty and seven thousand pounds of hazardous waste in 1993 and hazardous substance users who were required to report for the first time in 1993, by September 1, 1994;

(d) Hazardous waste generators who have not been required to complete a plan on or prior to September 1, 1994, must complete a plan by September 1 of the year following the first year that they generate more than two thousand six hundred forty pounds of hazardous waste; and

(e) Hazardous substance users who have not been required to complete a plan on or prior to September 1, 1994, must complete a plan by September 1 of the year following the first year that they are required to report under Section 313 of Title III of the Superfund Amendments and Reauthorization Act.

(6) Annual progress reports, including a description of the progress made toward achieving the specific performance goals established in the plan, shall be prepared and submitted to the department in accordance with rules developed under this section. Upon the request of two or more users or generators belonging to similar industrial classifications, the department may aggregate data contained in their annual progress reports for the purpose of developing a public record.

(7) Every five years, each plan shall be updated, and a new executive summary shall be submitted to the department.

NEW SECTION. Sec. 7. A new section is added to chapter 70.95C RCW to read as follows:

A person required to prepare a plan under section 6 of this act because of the quantity of hazardous waste generated may petition the director to be excused from this requirement. The person must demonstrate to the satisfaction of the director that the quantity of hazardous waste generated was due to unique circumstances not likely to be repeated and that the person is unlikely to generate sufficient hazardous waste to require a plan in the next five years.

NEW SECTION. Sec. 8. A new section is added to chapter 70.95C RCW to read as follows:

(1) The department may review a plan, executive summary, or an annual progress report to determine whether the plan, executive summary, or annual progress report is adequate pursuant to the rules developed under this section and with the provisions of section 6 of this act. In determining the adequacy of any plan, executive summary, or annual progress report, the department shall base its determination solely on whether the plan, executive summary, or annual progress report is complete and prepared in accordance with the provisions of section 6 of this act.

(2) Plans developed under section 6 of this act shall be retained at the facility of the hazardous substance user or hazardous waste generator preparing a plan. The plan is not a public record under the public disclosure

laws of the state of Washington contained in chapter 42.17 RCW. A user or generator required to prepare a plan shall permit the director or a representative of the director to review the plan to determine its adequacy. No visit made by the director or a representative of the director to a facility for the purposes of this subsection may be regarded as an inspection or investigation, and no notices or citations may be issued, nor any civil penalty assessed, upon such a visit.

(3) If a hazardous substance user or hazardous waste generator fails to complete an adequate plan, executive summary, or annual progress report, the department shall notify the user or generator of the inadequacy, identifying specific deficiencies. For the purposes of this section, a deficiency may include failure to develop a plan, failure to submit an executive summary pursuant to the schedule provided in section 6(5) of this act, and failure to submit an annual progress report pursuant to the rules developed under section 6(6) of this act. The department shall specify a reasonable time frame, of not less than ninety days, within which the user or generator shall complete a modified plan, executive summary, or annual progress report addressing the specified deficiencies.

(4) If the department determines that a modified plan, executive summary, or annual progress report is inadequate, the department may, within its discretion, either require further modification or enter an order pursuant to subsection (5)(a) of this section.

(5)(a) If, after having received a list of specified deficiencies from the department, a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete modification of a plan, executive summary, or annual progress report within the time period specified by the department, the department may enter an order pursuant to chapter 34.05 RCW finding the user or generator not in compliance with the requirements of section 6 of this act. When the order is final, the department shall notify the department of revenue to charge a penalty fee. The penalty fee shall be the greater of one thousand dollars or three times the amount of the user's or generator's previous year's fee, in addition to the current year's fee. If no fee was assessed the previous year, the penalty shall be the greater of one thousand dollars or three times the amount of the current year's fee. The penalty assessed under this subsection shall be collected each year after the year for which the penalty was assessed until an adequate plan or executive summary is completed.

(b) If a hazardous substance user or hazardous waste generator required to prepare a plan fails to complete an adequate plan, executive summary, or annual progress report after the department has levied against the user or generator the penalty provided in (a) of this subsection, the user or generator shall be required to pay a surcharge to the department whenever the user or generator disposes of a hazardous waste at any hazardous waste incinerator or hazardous waste landfill facility located in Washington state,

until a plan, executive summary, or annual progress report is completed and determined to be adequate by the department. The surcharge shall be equal to three times the fee charged for disposal. The department shall furnish the incinerator and landfill facilities in this state with a list of environmental protection agency/state identification numbers of the hazardous waste generators that are not in compliance with the requirements of section 6 of this act.

NEW SECTION. Sec. 9. A new section is added to chapter 70.95C RCW to read as follows:

A user or generator may appeal from a department order or a surcharge under section 8 of this act to the pollution control hearings board pursuant to chapter 43.21B RCW.

NEW SECTION. Sec. 10. A new section is added to chapter 70.95C RCW to read as follows:

(1) The department shall make available for public inspection any executive summary or annual progress report submitted to the department. Any hazardous substance user or hazardous waste generator required to prepare an executive summary or annual progress report who believes that disclosure of any information contained in the executive summary or annual progress report may adversely affect the competitive position of the user or generator may request the department pursuant to RCW 43.21A.160 to delete from the public record those portions of the executive summary or annual progress report that may affect the user's or generator's competitive position. The department shall not disclose any information contained in an executive summary or annual progress report pending a determination of whether the department will delete any information contained in the report from the public record.

(2) Any ten persons residing within ten miles of a hazardous substance user or hazardous waste generator required to prepare a plan may file with the department a petition requesting the department to examine a plan to determine its adequacy. The department shall report its determination of adequacy to the petitioners and to the user or generator within a reasonable time. The department may deny a petition if the department has within the previous year determined the plan of the user or generator named in the petition to be adequate.

(3) The department shall maintain a record of each plan, executive summary, or annual progress report it reviews, and a list of all plans, executive summaries, or annual progress reports the department has determined to be inadequate, including descriptions of corrective actions taken. This information shall be made available to the public.

NEW SECTION. Sec. 11. As used in this chapter, the following terms have the meanings indicated unless the context clearly requires otherwise.

(1) "Dangerous waste" shall have the same definition as set forth in RCW 70.105.010(5) and shall include those wastes designated as dangerous by rules adopted pursuant to chapter 70.105 RCW.

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

(3) "EPA/state identification number" means the number assigned by the EPA (environmental protection agency) or by the department of ecology to each generator and/or transporter and treatment, storage, and/or disposal facility.

(4) "Extremely hazardous waste" shall have the same definition as set forth in RCW 70.105.010(6) and shall specifically include those wastes designated as extremely hazardous by rules adopted pursuant to chapter 70.105 RCW.

(5) "Fee" means the annual fees imposed under this chapter.

(6) "Generate" means any act or process which produces hazardous waste or first causes a hazardous waste to become subject to regulation.

(7) "Hazardous waste" means and includes all dangerous and extremely hazardous wastes but for the purposes of this chapter excludes all radioactive wastes or substances composed of both radioactive and hazardous components.

(8) "Known generators" means persons that have notified the department, have received an EPA/state identification number and generate quantities of hazardous wastes regulated under chapter 70.105 RCW.

(9) "Person" means an individual, trust, firm, joint stock company, partnership, association, state, public or private or municipal corporation, commission, political subdivision of a state, interstate body, the federal government including any agency or officer thereof, and any Indian tribe or authorized tribal organization.

(10) "Potential generators" means all persons whose primary business activities are identified by the department to be likely to generate any quantity of hazardous wastes.

(11) "Price deflator" means the United States department of commerce bureau of economic analysis, "Implicit Price Deflator for Gross National Product" for "Government Purchases of Goods and Services," for "State and Local Government."

(12) "Recycled for beneficial use" means the use of hazardous waste, either before or after reclamation, as a substitute for a commercial product or raw material, but does not include: (a) Use constituting disposal; (b) incineration; or (c) use as a fuel.

(13) "Waste generation site" means any geographical area that has been assigned an EPA/state identification number.

NEW SECTION. Sec. 12. 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 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 the effective date of this act to December 31, 1990, or any part thereof.

NEW SECTION. Sec. 13. (1) Hazardous waste generators and hazardous substance users required to prepare plans under section 6 of this act shall pay an additional fee to support implementation of section 6 of this act and RCW 70.95C.040. These fees are to be used by the department, subject to appropriation, for plan review, technical assistance to facilities that are required to prepare plans, other activities related to plan development and implementation, and associated indirect costs. The total fees collected under this subsection shall not exceed the department's costs of implementing section 6 of this act and RCW 70.95C.040 and shall not exceed one million dollars per year. The annual fee for a facility shall not exceed ten thousand dollars per year. Any facility that generates less than two thousand six hundred forty pounds of hazardous waste per waste generation site in the previous calendar year shall be exempt from the fee imposed by this section. The annual fee for a facility generating at least two thousand six hundred forty pounds but not more than four thousand pounds of hazardous waste per waste generation site in the previous calendar year shall not exceed fifty dollars. A person that develops a plan covering more than one interrelated facility as provided for in section 6 of this act shall be assessed fees only for the number of plans prepared. The department shall adopt a fee schedule by rule after consultation with typical affected businesses and other interested parties. Hazardous waste generated and recycled for beneficial use, including initial amount of hazardous substances introduced into a process and subsequently recycled for beneficial use, shall not be used in the calculations of hazardous waste generated for purposes of this section.

(2) Fees imposed by this section shall be first due on July 1, 1991, for facilities that are required to prepare plans in 1992, on July 1, 1992, for facilities that are required to prepare plans in 1993, and on July 1, 1993, for facilities that are required to prepare plans in 1994.

NEW SECTION. Sec. 14. On an annual basis, the department shall adjust the fees provided for in sections 12 and 13 of this act, including the maximum annual fee, and maximum total fees, by conducting the calculation in subsection (1) of this section and taking the actions set forth in subsection (2) of this section:

(1) In November of each year, the fees, annual fee, and maximum total fees imposed in sections 12 and 13 of this act, or as subsequently adjusted by this section, shall be multiplied by a factor equal to the most current quarterly "price deflator" available, divided by the "price deflator" used in the numerator the previous year. However, the "price deflator" used in the denominator for the first adjustment shall be defined by the second quarter "price deflator" for 1990.

(2) Each year by March 1 the fee schedule, as adjusted in subsection (1) of this section will be published. The department will round the published fees to the nearest dollar.

NEW SECTION. Sec. 15. In administration of this chapter for the enforcement and collection of the fees due and owing under this chapter, the department of revenue is authorized to apply the provisions of chapter 82.32 RCW, except that the provisions of RCW 82.32.050 and 82.32.090 shall not apply.

NEW SECTION. Sec. 16. If a known or potential generator fails to pay all or any part of a fee imposed under this chapter, the department of revenue shall charge a penalty of three times the amount of the unpaid fee. The department of revenue shall waive any penalty in accordance with RCW 82.32.105.

NEW SECTION. Sec. 17. The legislative budget committee in 1994 shall review the fees provided for in chapter 70. (sections 11 through 20 of this act) and report its findings to the legislature not later than July 1, 1995.

NEW SECTION. Sec. 18. The hazardous waste assistance account is hereby created in the state treasury. The following moneys shall be deposited into the hazardous waste assistance account:

(1) Those revenues which are raised by the fees imposed under sections 12 and 13 of this act;

(2) Penalties and surcharges collected under chapter 70.95C RCW and this chapter; and

(3) Any other moneys appropriated or transferred to the account by the legislature. All earnings from investment of balances in the hazardous waste assistance account, except as provided in RCW 43.84.090, shall be credited to the hazardous waste assistance account. Moneys in the hazardous waste assistance account may be spent only for the purposes of this chapter following legislative appropriation.

NEW SECTION. Sec. 19. The department may use funds in the hazardous waste assistance account to provide technical assistance and compliance education assistance to hazardous substance users and waste generators, to provide grants to local governments, and for administration of this chapter. The department of revenue shall be appropriated a percentage amount of the total fees collected, not to exceed two percent of the total fees

collected, for administration and collection expenses incurred by the department of revenue.

Technical assistance may include the activities authorized under chapter 70.95C RCW and RCW 70.105.170 to encourage hazardous waste reduction and hazardous use reduction and the assistance provided for by RCW 70.105.100(2).

Compliance education may include the activities authorized under RCW 70.105.100(2) to train local agency officials and to inform hazardous substance users and hazardous waste generators and owners and operators of hazardous waste management facilities of the requirements of chapter 70.105 RCW and related federal laws and regulations.

Grants to local governments shall be used for small quantity generator technical assistance and compliance education components of their moderate risk waste plans as required by RCW 70.105.220.

NEW SECTION. Sec. 20. Nothing in this chapter relates to radioactive wastes or substances composed of both radioactive and hazardous components, and the department is precluded from using the funds of the hazardous waste assistance account for the regulation and control of such wastes.

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

(1) Section 1, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.010;

(2) Section 2, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.020;

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

(4) Section 4, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.040;

(5) Section 5, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.050;

(6) Section 6, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.060;

(7) Section 7, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.070;

(8) Section 8, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.080;

(9) Section 12, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.090;

(10) Section 9, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.900; and

(11) Section 15, chapter 65, Laws of 1983 1st ex. sess. and RCW 70.105A.905.

NEW SECTION. Sec. 22. Sections 11 through 20 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION. Sec. 23. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 24. 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 5, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 115

[Substitute House Bill No. 2482]

PUGET SOUND WATER QUALITY AUTHORITY

AN ACT Relating to the Puget Sound water quality authority; amending RCW 90.70.011, 90.70.045, 90.70.055, 90.70.060, 90.70.070, and 90.70.080; reenacting and amending RCW 43.88.030; adding new sections to chapter 90.70 RCW; adding new sections to chapter 43.131 RCW; creating a new section; and repealing RCW 90.70.900.

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

Sec. 1. Section 2, chapter 502, Laws of 1987 as amended by section 18, chapter 11, Laws of 1989 and by section 3, chapter 311, Laws of 1989 and RCW 43.88.030 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 budget document or documents shall consist of the governor's budget message which shall be explanatory of the budget and shall contain an outline of the proposed financial policies of the state for the ensuing fiscal period and shall describe in connection therewith the important features of the budget. The message shall set forth the reasons for salient changes from the previous fiscal period in expenditure and revenue items and shall explain any major changes in financial policy. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material in respect to both current operations and capital improvements as the governor shall deem to be useful to the legislature. The budget document or documents shall set forth a proposal for expenditures in the ensuing fiscal period based upon the estimated revenues as approved by the economic and revenue forecast council for such fiscal period from the source and at the rates existing by law at the time of

submission of the budget document. However, the estimated revenues for use in the governor's budget document may be adjusted to reflect budgetary revenue transfers and revenue estimates dependent upon budgetary assumptions of enrollments, workloads, and caseloads. All adjustments to the approved estimated revenues must be set forth in the budget document. The governor may additionally submit, as an appendix to each agency budget or to the budget document or documents, a proposal for expenditures in the ensuing fiscal period from revenue sources derived from proposed changes in existing statutes.

The budget document or documents shall also contain:

(a) Revenues classified by fund and source for the immediately past fiscal period, those received or anticipated for the current fiscal period, and those anticipated for the ensuing biennium;

(b) The undesignated fund balance or deficit, by fund;

(c) Such additional information dealing with expenditures, revenues, workload, performance and personnel as the legislature may direct by law or concurrent resolution;

(d) Such additional information dealing with revenues and expenditures as the governor shall deem pertinent and useful to the legislature;

(e) Tabulations showing expenditures classified by fund, function, activity and object; ((and))

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

(2) The budget document or documents shall include detailed estimates of all anticipated revenues applicable to proposed operating or capital expenditures and shall also include all proposed operating or capital expenditures. The total of beginning undesignated fund balance and estimated revenues less working capital and other reserves shall equal or exceed the total of proposed applicable expenditures. The budget document or documents shall further include:

(a) Interest, amortization and redemption charges on the state debt;

(b) Payments of all reliefs, judgments and claims;

(c) Other statutory expenditures;

(d) Expenditures incident to the operation for each agency;

(e) Revenues derived from agency operations;

(f) Expenditures and revenues shall be given in comparative form showing those incurred or received for the immediately past fiscal period and those anticipated for the current biennium and next ensuing biennium;

(g) A showing and explanation of amounts of general fund obligations for debt service and any transfers of moneys that otherwise would have been available for general fund appropriations;

(h) Common school expenditures on a fiscal-year basis;

(i) A showing, by agency, of the value and purpose of financing contracts for the lease/purchase or acquisition of personal or real property for the current and ensuing fiscal periods.

(3) A separate budget document or schedule may be submitted consisting of:

(a) Expenditures incident to current or pending capital projects and to proposed new capital projects, relating the respective amounts proposed to be raised therefor by appropriations in the budget and the respective amounts proposed to be raised therefor by the issuance of bonds during the fiscal period;

(b) A capital program consisting of proposed capital projects for at least the two fiscal periods succeeding the next fiscal period. The capital program shall include for each proposed project a statement of the reason or purpose for the project along with an estimate of its cost;

(c) Such other information bearing upon capital projects as the governor shall deem to be useful to the legislature;

(d) Such other information relating to capital improvement projects as the legislature may direct by law or concurrent resolution.

(4) No change affecting the comparability of agency or program information relating to expenditures, revenues, workload, performance and personnel shall be made in the format of any budget document or report presented to the legislature under this section or RCW 43.88.160(1) relative to the format of the budget document or report which was presented to the previous regular session of the legislature during an odd-numbered year without prior legislative concurrence. Prior legislative concurrence shall consist of (a) a favorable majority vote on the proposal by the standing committees on ways and means of both houses if the legislature is in session or (b) a favorable majority vote on the proposal by members of the legislative evaluation and accountability program committee if the legislature is not in session.

Sec. 2. Section 3, chapter 451, Laws of 1985 and RCW 90.70.011 are each amended to read as follows:

(1) There is established the Puget Sound water quality authority composed of ~~((seven))~~ eleven members. ~~((who are))~~ Nine members shall be appointed by the governor and confirmed by the senate. In addition, the commissioner of public lands or the commissioner's designee and the director of ecology or the director's designee shall serve as ex officio members. Three of the members shall include a representative from the counties, a representative from the cities, and a tribal representative. The ~~((governor shall select one of the seven members to act as))~~ director of ecology shall be

chair of the authority (~~and be presiding officer of the authority~~). In making these appointments, the governor shall seek to include representation of the variety of interested parties concerned about Puget Sound water quality. (~~The commissioner of public lands and the director of ecology shall serve as ex officio, nonvoting members of the authority. The six~~) Of the appointed members, at least one shall be selected from each of the six congressional districts surrounding Puget Sound(;;). Members shall serve four-year terms. Of the initial members appointed to the authority, two shall serve for two years, two shall serve for three years, and two shall serve for four years. Thereafter members shall be appointed to four-year terms. Members representing cities, counties, and the tribes shall also serve four-year staggered terms, as determined by the governor. Vacancies shall be filled by appointment for the remainder of the unexpired term of the position being vacated. The ((chair)) executive director of the authority shall be selected by the governor and shall serve at the pleasure of the governor. The executive director shall not be a member of the authority.

(2) (~~The voting members, exclusive of the chair,;~~) Members shall be compensated as provided in RCW 43.03.250. ((The voting)) Members shall be reimbursed for travel expenses as provided in RCW 43.03.050 and 43.03.060.

(3) The ((chair)) executive director of the authority shall be a full-time employee responsible for the administration of all functions of the authority, including hiring and terminating staff, contracting, coordinating with the governor, the legislature, and other state and local entities, and the delegation of responsibilities as deemed appropriate. The salary of the ((chair)) executive director shall be fixed by the governor, subject to RCW 43.03.040.

(4) The ((chair)) authority shall prepare a budget and a work plan (~~(which are subject to review and approval by the authority)~~).

(5) Not more than four employees of the authority may be exempt from the provisions of chapter 41.06 RCW.

(6) The executive director and staff of the authority shall be located in the Olympia area, as space becomes available. The department of general administration shall house the authority within the department of ecology.

Sec. 3. Section 7, chapter 451, Laws of 1985 as amended by section 72, chapter 36, Laws of 1988 and RCW 90.70.045 are each amended to read as follows:

(1) The ((chair)) executive director shall hire staff for the authority. In so doing, the ((chair)) 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 ~~((chair))~~ executive director may request the state departments of ecology, community development, fisheries, wildlife, agriculture, natural resources, parks and recreation, and ~~((social and))~~ health ~~((services))~~ to each assign at least one employee to the authority. The ~~((chair))~~ 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 ~~((chair shall have))~~ executive director has full authority and responsibility for the activities of these employees.

(3) The ~~((chair))~~ executive director shall seek assignment of appropriate federal and local government employees under available means.

Sec. 4. Section 4, chapter 451, Laws of 1985 and RCW 90.70.055 are each amended to read as follows:

The authority shall:

(1) Prepare and adopt a comprehensive Puget Sound water quality management plan, as defined in RCW 90.70.060. In preparing the plan and any substantial revisions to the plan, the authority shall consult with its advisory committee or committees and appropriate federal, state, and local agencies. The authority shall also solicit extensive participation by the public by whatever means it finds appropriate, including public hearings throughout communities bordering or near Puget Sound, dissemination of information through the news media, public notices, and mailing lists, and the organization of workshops, conferences, and seminars;

(2) During the plan's initial development and any subsequent revisions, submit ~~((quarterly))~~ annual progress reports on plan revisions and implementation to the governor and the legislature.

(3) Submit the plan to the governor and the legislature no later than January 1, 1987. The authority shall review the plan at least every ~~((two))~~ four years and revise the plan, as deemed appropriate, and shall submit the plan by July 1, 1994, and every four years thereafter;

(4) Prepare a biennial "state of the Sound" report and submit such report to the governor, the legislature, and the state agencies and local governments identified in the plan. Copies of the report shall be made available to the public. The report shall describe the current condition of water quality and related resources in Puget Sound and shall include:

(a) The status and condition of the resources of Puget Sound, including the results of ecological monitoring, including an assessment of the economic value of Puget Sound;

(b) Current and foreseeable trends in water quality of Puget Sound and the management of its resources;

(c) Review of significant public and private activities affecting Puget Sound and an assessment of whether such activities are consistent with the plan; and

(d) Recommendations to the governor, the legislature, and appropriate state and local agencies for actions needed to remedy any deficiencies in current policies, plans, programs, or activities relating to the water quality of Puget Sound, and recommendations concerning changes necessary to protect and improve Puget Sound water quality; and

(5) Review the Puget Sound related budgets and regulatory and enforcement activities of state agencies with responsibilities for water quality and related resources in Puget Sound.

Sec. 5. Section 8, chapter 451, Laws of 1985 as amended by section 31, chapter 11, Laws of 1989 and RCW 90.70.060 are each amended to read as follows:

The plan adopted by the authority shall be a positive document prescribing the needed actions for the maintenance and enhancement of Puget Sound water quality. The plan shall address all the waters of Puget Sound, the Strait of Juan de Fuca, and, to the extent that they affect water quality in Puget Sound, all waters flowing into Puget Sound, and adjacent lands. The authority may define specific geographic boundaries within which the plan applies. The plan shall coordinate and incorporate existing planning and research efforts of state agencies and local government related to Puget Sound, and shall avoid duplication of existing efforts. The plan shall include:

(1) A statement of the goals and objectives for long and short-term management of the water quality of Puget Sound;

(2) A resource assessment which identifies critically sensitive areas, key characteristics, and other factors which lead to an understanding of Puget Sound as an ecosystem;

(3) Demographic information and assessment as relates to future water quality impacts on Puget Sound;

(4) An identification and legal analysis of all existing laws governing actions of government entities which may affect water quality management of Puget Sound, the interrelationships of those laws, and the effect of those laws on implementation of the provisions of the plan;

(5) Review and assessment of existing criteria and guidelines for governmental activities affecting Puget Sound's resources, including shoreline resources, aquatic resources, associated watersheds, recreational resources and commercial resources;

(6) Identification of research needs and priorities;

(7) Recommendations for guidelines, standards, and timetables for protection and clean-up activities and the establishment of priorities for major clean-up investments and nonpoint source management, and the projected costs of such priorities;

(8) A procedure assuring local government initiated planning for Puget Sound water quality protection;

(9) Ways to better coordinate federal, state, and local planning and management activities affecting Puget Sound's water quality;

(10) Public involvement strategies, including household hazardous waste education, community clean-up efforts, and public participation in developing and implementing the plan;

(11) Recommendations on protecting, preserving and, where possible, restoring wetlands and wildlife habitat and shellfish beds throughout Puget Sound;

(12) Recommendations for a comprehensive water quality and sediment monitoring program;

(13) Analysis of current industrial pretreatment programs for toxic wastes, and procedures and enforcement measures needed to enhance them;

(14) Recommendations for a program of dredge spoil disposal, including interim measures for disposal and storage of dredge spoil material from or into Puget Sound;

(15) Definition of major public actions subject to review and comment by the authority because of a significant impact on Puget Sound water quality and related resources, and development of criteria for review thereof;

(16) Recommendations for implementation mechanisms to be used by state and local government agencies;

(17) Standards and procedures for reporting progress by state and local governments in the implementation of the plan;

(18) An analysis of resource requirements and funding mechanisms for updating of the plan and plan implementation; and

(19) Legislation needed to assure plan implementation.

The authority shall circulate and receive comments on drafts of the plan mandated herein, and keep a record of all relevant comments made at public hearings and in writing. These records should be made easily available to interested persons.

As part of the plan, the authority shall prepare a strategy for implementing the plan that includes, but is not limited to: (a) Setting priorities for implementation of plan elements to facilitate executive and legislative decision making; (b) assessment of the capabilities and constraints, both internal and external to state and local government, that may affect plan implementation; and (c) an analysis of the strategic options in light of the resources available to the state. In developing this strategy, the authority shall consult and coordinate with other related environmental planning efforts.

Sec. 6. Section 9, chapter 451, Laws of 1985 and RCW 90.70.070 are each amended to read as follows:

(1) In conducting planning, regulatory, and appeals actions, the state agencies and local governments identified in the plan must evaluate, and incorporate as applicable, subject to the availability of appropriated funds or other funding sources, the provisions of the plan, including any guidelines, standards, and timetables contained in the plan.

(2) The authority shall review the progress of state agencies and local governments regarding the timely implementation of the plan. Where prescribed actions have not been accomplished in accordance with the plan, the responsible state agencies and local governments shall, at the request of the authority, submit written explanations for the shortfalls, together with their proposed remedies, to the authority.

The results of the review and a description of the actions necessary to comply with the plan shall be included in the biennial state of the Sound report.

(3) The state agencies and local governments identified in the plan shall review their activities biennially and document their consistency with the plan. They shall submit written reports or updates of their findings to the authority.

(4) The authority shall review the major actions affected by the plan being considered by the state agencies and local governments and shall comment in a timely manner regarding consistency with the plan and may participate in administrative and subsequent judicial proceedings with respect to such actions. Any deviations from the plan, identified by the authority, shall be transmitted in writing by the authority to the responsible state agency or local government.

Sec. 7. Section 10, chapter 451, Laws of 1985 and RCW 90.70.080 are each amended to read as follows:

(1) To implement this chapter, state agencies are authorized to adopt rules that are applicable to actions and activities on a less than state-wide geographic basis. State agencies are encouraged to adopt rules that protect Puget Sound water quality before the adoption of the plan by the authority.

(2) A rule to implement an element of the plan that applies on a less than state-wide basis shall contain a statement defining the geographic area to which it applies. In determining whether to adopt rules on a state-wide or less than state-wide basis, state agencies shall consider at least the following factors:

(a) Number and location of primary affected persons;

(b) Geographical distribution of the actions and activities;

(c) Equity among regulated and nonregulated persons;

(d) Difficulty and practicality of implementation, including the effects on existing agency programs;

(e) Expected environmental benefits;

(f) Availability of information related to the actions and activities; and

(g) Requirements of other state or federal laws, rules, and policies.

When a state agency proposes to adopt a rule applicable beyond the Puget Sound area, and that rule was originally proposed to implement an element of the plan, the state agency shall ensure that early and meaningful participation by interested members of the public is provided from all geographic areas to which the rule will be applicable.

(3) To implement this chapter, counties, cities, and towns are authorized to adopt ordinances, rules, and regulations that are applicable on less than a county-wide, city-wide, or town-wide basis. Counties, cities, and towns are encouraged to adopt ordinances, rules, and regulations that protect Puget Sound water quality before the adoption of the plan by the authority.

NEW SECTION. Sec. 8. A new section is added to chapter 90.70 RCW to read as follows:

In addition to other powers and duties specified in this chapter, the authority may form a public nonprofit corporation in the same manner as a private nonprofit corporation is formed under chapter 24.03 RCW, the Washington Nonprofit Corporation Act. The public corporation shall be an instrumentality of the state and have all the powers and be subject to the same restrictions as are permitted or prescribed to private nonprofit corporations but shall exercise these powers only for carrying out the purposes of this section. However, the public nonprofit corporation shall not borrow money or incur any indebtedness. The public corporation shall be known as the Puget Sound Foundation. The purposes of the foundation shall be to:

(1) Receive, disburse, and administer gifts, grants, endowments, or other funds from any source that support a comprehensive and coordinated program of research and education activities connected with Puget Sound water quality, consistent with the purposes of this chapter;

(2) Promote the coordination and support of research and education activities that address the cumulative effects of decisions on the Puget Sound ecosystem;

(3) Assist in making the results of research available and useful to the decision-making process; and

(4) Host an annual meeting, to be known as the Puget Sound summit, assembling state agencies, local governments, tribes, the public, and private businesses for the purposes of improving understanding about the obstacles to plan implementation, enhancing cooperation, and expediting Puget Sound cleanup.

NEW SECTION. Sec. 9. A new section is added to chapter 90.70 RCW 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, 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. 10. A new section is added to chapter 90.70 RCW to read as follows:

(1) At least twenty days before public hearings commence regarding a proposal to adopt or revise the plan or any portion of it, the authority shall cause to be published in the state register the following information:

(a) A summary of the proposal;

(b) The personnel, with their office location and telephone numbers, who are responsible for the drafting of the proposal; and

(c) When, where, and how persons may present their views on the proposal.

(2) The authority may not adopt any portion of the plan that is substantially different from the version of the plan that was summarized in the state register under subsection (1) of this section, unless a supplemental notice is published in the state register reopening public comment on the proposed variance. The following factors shall be considered in determining whether an adopted portion of the plan is substantially different from the summarized version:

(a) The extent to which a reasonable person affected by the adopted plan would have understood that the summarized version would affect his or her interests;

(b) The extent to which the subject of the adopted plan or the issues determined in it are substantially different from the subject or issues involved in the summarized version; and

(c) The extent to which the effects of the adopted plan differ from the effects of the summarized version.

NEW SECTION. Sec. 11. A new section is added to chapter 43.131 RCW to read as follows:

The Puget Sound water quality authority and its powers and duties shall be terminated on June 30, 1995, as provided in section 12 of this act.

NEW SECTION. Sec. 12. A new section is added to chapter 43.131 RCW to read as follows:

The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective June 30, 1996:

- (1) Section 1, chapter 451, Laws of 1985 and RCW 90.70.001;
- (2) Section 2, chapter 451, Laws of 1985 and RCW 90.70.005;
- (3) Section 3, chapter 451, Laws of 1985, section 2 of this act and RCW 90.70.011;
- (4) Section 5, chapter 451, Laws of 1985 and RCW 90.70.025;
- (5) Section 6, chapter 451, Laws of 1985 and RCW 90.70.035;
- (6) Section 7, chapter 451, Laws of 1985, section 72, chapter 36, Laws of 1988, section 3 of this act and RCW 90.70.045;
- (7) Section 4, chapter 451, Laws of 1985, section 4 of this act and RCW 90.70.055;
- (8) Section 8, chapter 451, Laws of 1985, section 31, chapter 11, Laws of 1989, section 5 of this act and RCW 90.70.060;
- (9) Section 9, chapter 451, Laws of 1985, section 6 of this act and RCW 90.70.070;
- (10) Section 10, chapter 451, Laws of 1985, section 7 of this act and RCW 90.70.080; and
- (11) Section 14, chapter 451, Laws of 1985 and RCW 90.70.901.

NEW SECTION. Sec. 13. Nothing in section 12 of this act shall affect the implementation and requirements of the Puget Sound water quality management plan existing on June 30, 1995, or such other effective date of repeal of the laws referenced in section 12 of this act. The implementation of the plan on and after that date shall be the responsibility of such entities as are provided by the legislature.

NEW SECTION. Sec. 14. Section 6, chapter 243, Laws of 1983, section 11, chapter 451, Laws of 1985 and RCW 90.70.900 are each repealed.

Passed the House February 28, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 116

[Second Substitute House Bill No. 2494]

OIL AND HAZARDOUS SUBSTANCE SPILLS

AN ACT Relating to oil and hazardous substance spills; amending RCW 90.48.315, 90.48.320, 90.48.336, 90.48.338, 90.48.350, 90.48.330, 90.48.335, 90.48.355, 90.48.360, 88.16.090, 88.16.100, 88.40.005, 88.40.010, 88.40.020, and 88.40.030; reenacting and amending RCW 90.48.400; adding new sections to chapter 90.48 RCW; adding a new section to chapter 88.16 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION. Sec. 1. The legislature finds that the increasing reliance on water borne transportation as a source of supply for oil and hazardous substances poses special concern for the state of Washington. Vessels transporting oil into Washington travel on some of the most unique and special marine environments in the United States. These marine environments are a source of natural beauty, recreation, and economic livelihood for many residents of this state. As a result, the state has an obligation to assure the citizens of the state that the waters of the state used for water borne transportation will be protected. The legislature declares that this act is the first step in developing a comprehensive approach to protecting this important and unique resource by developing a set of procedures to respond to spills of oil and hazardous substances into the state's waters.

The legislature also finds that prevention is the best method to protect the unique and special marine environments in this state. The technology for containing and cleaning up a spill of oil or hazardous substances is in the early stages of development. Preventing spills is more protective of the environment and more cost-effective when all the costs associated with responding to a spill are considered. The legislature declares that it will continue to develop this first step in a comprehensive approach to protecting our unique and special marine environment by adopting measures in future sessions of the legislature to reduce the likelihood that a spill of oil or hazardous substances will occur.

Sec. 2. Section 10, chapter 133, Laws of 1969 ex. sess. as last amended by section 6, chapter 388, Laws of 1989 and RCW 90.48.315 are each amended to read as follows:

For purposes of RCW 90.48.315 through ~~((90.48.365))~~ 90.48.410, sections 3 through 10, 12, 13, 15, 16, and 22 of this 1990 act, 78.52.020, 78.52.125, 82.36.330, ((90.48.315, 90.48.370 through 90.48.410;)) 90.48.903, 90.48.906, and 90.48.907~~((, and 90.48.366 through 90.48.369))~~, the following definitions shall apply unless the context indicates otherwise:

- (1) "Board" shall mean the pollution control hearings board.
- (2) "Cargo vessel" means a ship in commerce, other than a tank vessel, of three hundred gross tons or more.

(3) "Committee" shall mean the preassessment screening committee established under RCW 90.48.368.

(4) "Covered vessel" means a tank vessel, cargo vessel, or passenger vessel.

~~((3))~~ (5) "Department" shall mean the department of ecology.

~~((4))~~ (6) "Director" shall mean the director of the department of ecology.

~~((5))~~ (7) "Discharge" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

~~((6))~~ (8)(a) "Facility" means any structure, group of structures, equipment, or device, other than a vessel, located on or near the navigable waters of the state that receives oil in bulk from a tank vessel, that is used for producing, storing, handling, transferring, processing, or transporting oil in bulk, and is capable of storing ten thousand or more gallons of oil.

(b) A facility does not include any railroad car, motor vehicle, or other rolling stock used to transport oil over the highways or rail lines of this state.

(9) "Fund" shall mean the state coastal protection fund as provided in RCW 90.48.390 and 90.48.400.

~~((7))~~ (10) "Having control over oil" shall include but not be limited to any person using, storing, or transporting oil immediately prior to entry of such oil into the waters of the state, and shall specifically include carriers and bailees of such oil.

~~((8))~~ (11) "Maximum probable spill" means the maximum probable spill for a vessel operating in state waters considering the history of spills of vessels of the same class operating on the west coast of the United States, Alaska, and British Columbia.

(12) "Navigable waters of the state" means those waters that are subject to the ebb and flow of the tide and/or are presently used, have been used in the past, or may be susceptible for use to transport intrastate, interstate, or foreign commerce.

(13) "Necessary expenses" means the expenses incurred by the department and assisting state agencies for (a) investigating the source of the discharge; (b) investigating the extent of the environmental damage caused by the discharge; ~~((and))~~ (c) conducting actions necessary to clean up the discharge; (d) conducting predamage and damage assessment studies; and (e) enforcing the provisions of this chapter and collecting for damages caused by a discharge.

~~((9))~~ (14) "Oil" or "oils" shall mean oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse, liquid natural gas, propane, butane, oils distilled from coal, and other liquid hydrocarbons regardless of specific gravity, or any other petroleum related product.

(15) "Passenger vessel" means a ship of three hundred or more gross tons carrying passengers for compensation.

~~((+10))~~ (16) "Person" shall mean any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual, or any other entity whatsoever and any owner, operator, master, officer, or employee of a ship.

~~((+11))~~ (17) "Ship" shall mean any boat, ship, vessel, barge, or other floating craft of any kind.

~~((+12))~~ (18) "Spill" means a discharge of oil or hazardous substances into the waters of the state.

(19) "Tank vessel" means a ship that is constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue, and that:

(a) Operates on the waters of the state; or

(b) Transfers oil in a port or place subject to the jurisdiction of this state.

(20) "Technical feasibility" or "technically feasible" shall mean that given available technology, a restoration or enhancement project can be successfully completed at a cost that is not disproportionate to the value of the resource prior to the injury.

~~((+13))~~ (21) "Waters of the state" shall include lakes, rivers, ponds, streams, inland waters, underground water, salt waters, estuaries, tidal flats, beaches and lands adjoining the seacoast of the state, sewers, and all other surface waters and watercourses within the jurisdiction of the state of Washington.

(22) "Worst case spill" means a spill of the entire cargo of a tank vessel complicated by adverse weather conditions.

NEW SECTION. Sec. 3. (1) Each facility and covered vessel shall have a contingency plan for the containment and cleanup of oil spills from the facility or covered vessel into the waters of the state and for the protection of fisheries and wildlife, natural resources, and public and private property from such spills. The department shall by rule adopt standards for the preparation of contingency plans. The rules for facilities and, except as otherwise provided in this subsection, for covered vessels shall be adopted not later than July 1, 1991. The department shall exclude from the rules to be adopted by July 1, 1991, standards for tank vessels of less than twenty thousand deadweight tons, cargo vessels, and passenger vessels operating on the portion of the Columbia river for which the department determines that Washington and Oregon should cooperate in the adoption of standards for contingency plans. The department, after consultation with the appropriate state agencies in Oregon, shall adopt the rules for standards for contingency plans for this portion of the Columbia river at the earliest possible time, but not later than July 1, 1992. The department shall require contingency plans, at a minimum, to meet the following standards:

(a) Include full details of the method of response to spills of various sizes from any vessel, ship, or facility which is covered by the plan;

(b) Be designed to be capable in terms of personnel, materials, and equipment, of promptly and properly, to the maximum extent practicable, as defined by the department:

(i) Removing oil and minimizing any damage to the environment resulting from a maximum probable spill; and

(ii) Removing oil and minimizing any damage to the environment resulting from a worst case spill;

(c) Provide a clear, precise, and detailed description of how the plan relates to and is integrated into relevant contingency plans which have been prepared by cooperatives, ports, regional entities, the state, and the federal government;

(d) Provide procedures for early detection of oil spills and timely notification of such spills to appropriate federal, state, and local authorities under applicable state and federal law;

(e) State the number, training preparedness, and fitness of all dedicated, prepositioned personnel assigned to direct and implement the plan;

(f) Incorporate periodic training and drill programs to evaluate whether personnel and equipment provided under the plan are in a state of operational readiness at all times;

(g) State the means of protecting and mitigating effects on the environment, including fish, marine mammals, and other wildlife, and ensure that implementation of the plan does not pose unacceptable risks to the public or the environment;

(h) Provide a detailed description of equipment and procedures to be used by the crew of a vessel to minimize vessel damage, stop or reduce any spilling from the vessel, and, only when appropriate and the vessel/safety is assured, contain and clean up the spilled oil;

(i) Provide arrangements for the repositioning of oil spill containment and cleanup equipment and trained personnel at strategic locations from which they can be deployed to the spill site to promptly and properly remove the spilled oil;

(j) Provide arrangements for enlisting the use of qualified and trained cleanup personnel to implement the plan;

(k) Provide for disposal of recovered spilled oil in accordance with local, state, and federal laws;

(l) State the measures that have been taken to reduce the likelihood that a spill will occur, including but not limited to, design and operation of a vessel or facility, training of personnel, number of personnel, and backup systems designed to prevent a spill;

(m) State the amount and type of equipment available to respond to a spill, where the equipment is located, and the extent to which other contingency plans rely on the same equipment; and

(n) If the department has adopted rules permitting the use of dispersants, the circumstances, if any, and the manner for the application of the dispersants in conformance with the department's rules.

(2)(a) Contingency plans for facilities capable of storing one million gallons or more of oil and for tank vessels of twenty thousand deadweight tons or more shall be submitted to the department within six months after the department adopts rules establishing standards for contingency plans under subsection (1) of this section.

(b) Except as otherwise provided in (c) of this subsection, contingency plans for all other facilities and covered vessels shall be submitted to the department within eighteen months after the department has adopted rules under subsection (1) of this section. The department may adopt a schedule for submission of plans within the eighteen-month period.

(c) Contingency plans for covered vessels which are not required to submit plans within the six month period prescribed in (a) of this subsection and which operate on the portion of the Columbia river for which the department must adopt rules not later than July 1, 1992, shall be submitted to the department not later than January 1, 1993.

(3)(a) The owner or operator of a facility shall submit the contingency plan for the facility.

(b) The owner or operator of a tank vessel or of the facilities at which the vessel will be unloading its cargo shall submit the contingency plan for the tank vessel. Subject to conditions imposed by the department, the owner or operator of a facility may submit a single contingency plan for tank vessels of a particular class that will be unloading cargo at the facility.

(c) The contingency plan for a cargo vessel or passenger vessel may be submitted by the owner or operator of the cargo vessel or passenger vessel or by the agent for the vessel resident in this state. Subject to conditions imposed by the department, the owner, operator, or agent may submit a single contingency plan for cargo vessels or passenger vessels of a particular class.

(d) A person who has contracted with a facility or covered vessel to provide containment and cleanup services and who meets the standards established pursuant to section 4 of this act, may submit the plan for any facility or covered vessel for which the person is contractually obligated to provide services. Subject to conditions imposed by the department, the person may submit a single plan for more than one facility or covered vessel.

(4) A contingency plan prepared for an agency of the federal government that satisfies the requirements of this section and rules adopted by the department may be accepted by the department as a contingency plan under this section. The department shall assure that to the greatest extent possible, requirements for contingency plans under this section are consistent with the requirements for contingency plans under federal law.

(5) In reviewing the contingency plans required by this section, the department shall consider at least the following factors:

(a) The adequacy of containment and cleanup equipment, personnel, communications equipment, notification procedures and call down lists, response time, and logistical arrangements for coordination and implementation of response efforts to remove oil and hazardous substance spills promptly and properly and to protect the environment;

(b) The nature and amount of vessel traffic within the area covered by the plan;

(c) The volume and type of oil or hazardous substances being transported within the area covered by the plan;

(d) The existence of navigational hazards within the area covered by the plan;

(e) The history and circumstances surrounding prior spills of oil and hazardous substances within the area covered by the plan;

(f) The sensitivity of fisheries and wildlife and other natural resources within the area covered by the plan;

(g) Relevant information on previous spills contained in on-scene coordinator reports prepared by the department; and

(h) The extent to which reasonable, cost-effective measures to prevent a likelihood that a spill will occur have been incorporated into the plan.

(6) The department shall approve a contingency plan only if it determines that the plan meets the requirements of this section and that, if implemented, the plan is capable, in terms of personnel, materials, and equipment, of removing oil or hazardous substances promptly and properly and minimizing any damage to the environment.

(7) Upon approval of a contingency plan, the department shall provide to the person submitting the plan a statement indicating that the plan has been approved, the facilities or vessels covered by the plan, and other information the department determines should be included.

(8) An owner or operator of a vessel, ship, or facility shall notify the department in writing immediately of any significant change of which it is aware affecting its contingency plan, including changes in any factor set forth in this section or in rules adopted by the department. The department may require the owner or operator to update a contingency plan as a result of these changes.

(9) The department by rule shall require contingency plans to be reviewed, updated, if necessary, and resubmitted to the department at least once every five years.

(10) Approval of a contingency plan by the department does not constitute an express assurance regarding the adequacy of the plan nor constitute a defense to liability imposed under this chapter or other state law.

NEW SECTION. Sec. 4. The department shall by rule establish standards for persons who contract to provide cleanup and containment services under contingency plans approved under section 3 of this act.

NEW SECTION. Sec. 5. The department shall annually publish an index of available, up-to-date descriptions of contingency plans for oil spills submitted and approved pursuant to section 3 of this act and an inventory of equipment available for responding to such spills.

NEW SECTION. Sec. 6. The department shall by rule adopt procedures to determine the adequacy of contingency plans approved under section 3 of this act. The rules shall require random practice drills without prior notice that will test the adequacy of the responding entities. The rules may provide for unannounced practice drills of individual contingency plans. The department shall review and publish a report on the drills, including an assessment of response time and available equipment and personnel compared to those listed in the contingency plans relying on the responding entities, and requirements, if any, for changes in the plans or their implementation. The department may require additional drills and changes in arrangements for implementing approved plans which are necessary to ensure their effective implementation.

NEW SECTION. Sec. 7. The provisions of contingency plans approved by the department under section 3 of this act shall be legally binding on those persons submitting them to the department and on their successors, assigns, agents, and employees. The superior court shall have jurisdiction to restrain a violation of, compel specific performance of, or otherwise to enforce such plans upon application by the department. The department may issue an order pursuant to chapter 34.05 RCW requiring compliance with a contingency plan. An order under this section is not subject to review by the pollution control hearings board as provided in RCW 43.21B.110.

NEW SECTION. Sec. 8. (1) Except as provided in subsection (2) of this section, it shall be unlawful for any person to knowingly and intentionally operate in this state or on the waters of this state a facility or covered vessel without an approved contingency plan as required by section 3 of this act. The first conviction under this section shall be a gross misdemeanor under chapter 9A.20 RCW. A second or subsequent conviction shall be a class C felony under chapter 9A.20 RCW.

(2) It shall not be unlawful for a person to operate a facility or covered vessel if:

(a) The facility or covered vessel is not required to have a contingency plan;

(b) A plan has been submitted to the department as required by section 3 of this act and rules adopted by the department and the department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(3) A facility may rely on a copy of the statement issued by the department pursuant to section 3(7) of this act as evidence that the vessel has an approved contingency plan.

NEW SECTION. Sec. 9. (1) Except as provided in subsection (4) of this section, it shall be unlawful for a covered vessel to enter the waters of the state without an approved contingency plan as provided in section 3 of this act. The department may deny entry onto the waters of the state to any covered vessel that does not have a contingency plan and is so required.

(2) Except as provided in subsection (4) of this section, it shall be unlawful:

(a) For a facility to operate without an approved contingency plan as required under section 3 of this act; or

(b) For a facility or any other person to accept cargo or passengers from a covered vessel that does not have an approved contingency plan required under section 3 of this act.

(3) The department may notify the department of licensing to suspend the business license of any facility or other person that is in violation of this section. The department may assess a civil penalty of up to one hundred thousand dollars against any person who is in violation of this section. Each day that a facility, person, or covered vessel is in violation of this section shall be considered a separate violation.

(4) It shall not be unlawful for a covered vessel to operate on the waters of the state or a facility or other person to operate or accept cargo or passengers from a covered vessel if:

(a) A contingency plan is not required for the facility or covered vessel;

(b) A contingency plan has been submitted to the department as required by section 3 of this act and rules adopted by the department and the department is reviewing the plan and has not denied approval; or

(c) The covered vessel has entered state waters after the United States coast guard has determined that the vessel is in distress.

(5) Any person may rely on a copy of the statement issued by the department pursuant to section 3(7) of this act as evidence that the vessel has an approved contingency plan.

NEW SECTION. Sec. 10. (1) Not later than July 1, 1991, the department shall prepare and thereafter annually update a state-wide master oil and hazardous substance spill contingency plan. In preparing the plan, the department shall consult with an advisory committee representing diverse interests concerned with oil and hazardous substance spills, including state agencies, local governments, port districts, private facilities, environmental organizations, oil companies, shipping companies, containment and cleanup contractors, tow companies, and hazardous substance manufacturers.

(2) The state master plan prepared under this section shall at a minimum:

(a) Take into consideration the elements of oil spill contingency plans approved or submitted for approval pursuant to section 3 of this act and oil and hazardous substance spill contingency plans prepared pursuant to other state or federal law or prepared by federal agencies and regional entities;

(b) State the respective responsibilities as established by relevant statutes and rules of each of the following in the assessment, containment, and cleanup of a catastrophic oil spill or of a significant spill of a hazardous substance into the environment of the state: (i) State agencies; (ii) local governments; (iii) appropriate federal agencies; (iv) facility operators; (v) property owners whose land or other property may be affected by the oil or hazardous substance spill; and (vi) other parties identified by the department as having an interest in or the resources to assist in the containment and cleanup of an oil or hazardous substance spill;

(c) State the respective responsibilities of the parties identified in (b) of this subsection in an emergency response;

(d) Identify actions necessary to reduce the likelihood of catastrophic oil spills and significant spills of hazardous substances; and

(e) Identify and obtain mapping of environmentally sensitive areas at particular risk to oil and hazardous substance spills.

(3) In preparing and updating the state master plan, the department shall:

(a) Consult with federal, municipal, and community officials, other state agencies, and with representatives of affected regional organizations;

(b) Submit the draft plan to the public for review and comment;

(c) Submit to the appropriate standing committees of the legislature for review, not later than November 1 of each year, the plan and any annual revision of the plan; and

(d) Require or schedule unannounced oil spill drills as required by section 6 of this act to test the sufficiency of oil spill contingency plans approved under section 3 of this act.

NEW SECTION. Sec. 11. The department of wildlife, in consultation with the departments of fisheries, ecology, and natural resources shall study and report to the appropriate standing committees of the house of representatives and the senate the current efforts by local, state, and federal governments, and recommendations for additional efforts, to collect environmental baseline data in sensitive areas for the determination of potential effects of spills, including data on the chronic effects of spills. The study shall also consider plans for long-term monitoring of environmental effects in those areas, to be implemented in the event of a major spill. The report shall be submitted to the legislature not later than December 1, 1990.

NEW SECTION. Sec. 12. (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 wildlife designated by the director of wildlife. The department of 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 wildlife;

(b) A representative of the department of ecology designated by the director;

(c) A representative of the department of community development emergency management program designated by the director of community 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 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 section 13 of this act. 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 commission is encouraged to seek grants, gifts, or donations from private sources in order to carry out the provisions of this section and section 13 of this act. 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.

NEW SECTION. Sec. 13. The department of 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 section 12 of this act.

Sec. 14. Section 5, chapter 180, Laws of 1971 ex. sess. as amended by section 4, chapter 262, Laws of 1989 and by section 8, chapter 388, Laws of 1989 and RCW 90.48.400 are each reenacted and amended to read as follows:

(1) Moneys in the coastal protection fund shall be disbursed for the following purposes and no others:

(a) All costs of the department related to the enforcement of RCW 90.48.315 through 90.48.365, sections 3 through 10, 12, 13, 15, 16, and 25 of this 1990 act, 78.52.020, 78.52.125, 82.36.330, 90.48.142, ((90.48.315; 90.48.370 through 90.48.410;)) 90.48.903, 90.48.906, and 90.48.907((, and 90.48.366 through 90.48.368)) including but not limited to equipment rental and contracting costs.

(b) All costs involved in the abatement of pollution related to the discharge of oil and other hazardous substances.

(c) The director may allocate a portion of the fund to be devoted to research and development in the causes, effects, and removal of pollution caused by the discharge of oil or other hazardous substances.

(2) Moneys disbursed from the coastal protection fund for the abatement of pollution caused by the discharge of oil or other hazardous substances shall be reimbursed to the fund whenever:

(a) Moneys are available under any federal program; or

(b) Moneys are available from a recovery made by the department from the person liable for the discharge of oil or other hazardous substances.

(3) Moneys collected under RCW 90.48.142 shall only be used for the purposes enumerated in that section, subject to the approval of the steering committee.

(4) A steering committee consisting of representatives of the department of ecology, fisheries, wildlife, and natural resources, and the parks and recreation commission shall authorize the expenditure of the moneys collected under RCW 90.48.366 through 90.48.368, after consulting impacted local agencies and local and tribal governments. The moneys collected under RCW 90.48.366 through 90.48.368 shall only be used for the following purposes: (a) Environmental restoration and enhancement projects intended to restore or enhance environmental, recreational, or aesthetic resources for the benefit of Washington's citizens; (b) investigations of the long-term effects of oil spills and the release of other hazardous substances on state resources; ~~((and))~~ (c) reimbursement of agencies for reasonable reconnaissance and damage assessment costs; and (d) wildlife rescue and rehabilitation. Agencies may not be reimbursed under this section for the salaries and benefits of permanent employees for routine operational support. Agencies may only be reimbursed under this section if money for reconnaissance and damage assessment activities is unavailable from other sources.

NEW SECTION. Sec. 15. The department shall develop policies and a plan concerning:

(1) When and under what circumstances, if any, chemical agents, such as coagulants, dispersants, and bioremediation, may be used in response to an oil spill; and

(2) The disposal of oil and hazardous substances recovered from an oil or hazardous substance spill.

NEW SECTION. Sec. 16. The department of ecology shall study standards for the manner in which, and the equipment with which, tow boats may tow barges carrying oil or hazardous substances as cargo or cargo residue. The standards shall address but are not limited to: Wire rope specifications, catenary, the design of related on-board equipment, number of cables, and back-up or barge retrieval systems in case of cable break.

The department shall seek voluntary compliance with such standards.

Finally, the department shall study state jurisdiction over and liability of mandatory compliance with such standards. The department shall report to the appropriate standing committees of the legislature by July 1, 1991, recommendations regarding mandatory compliance with such standards.

Sec. 17. Section 1, chapter 133, Laws of 1969 ex. sess. as last amended by section 146, chapter 109, Laws of 1987 and RCW 90.48.320 are each amended to read as follows:

It shall be unlawful, except under the circumstances hereafter described in this section, for oil to enter the waters of the state from any ship or any fixed or mobile facility or installation located offshore or onshore whether publicly or privately operated, regardless of the cause of the entry or fault of the person having control over the oil, or regardless of whether it be the result of intentional or negligent conduct, accident or other cause. This section shall not apply to discharges of oil in the following circumstances:

(1) The person discharging was expressly authorized to do so by the department prior to the entry of the oil into state waters; or

(2) The person discharging was authorized to do so by operation of law as provided in RCW 90.48.200(;

~~(3) Where a person having control over the oil can prove that a discharge was caused by:~~

~~(a) An act of war or sabotage, or~~

~~(b) Negligence on the part of the United States government, or the state of Washington)).~~

Sec. 18. Section 6, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.336 are each amended to read as follows:

(1) Any person owning oil or having control over ((the same which)) oil that enters the waters of the state in violation of RCW 90.48.320 shall be strictly liable, without regard to fault, for the damages to persons or property, public or private, caused by such entry.

(2) In any action to recover ((such)) damages resulting from the discharge of oil in violation of RCW 90.48.320, ((said)) the owner or person having control over the oil shall be relieved from strict liability, without regard to fault, if ((he)) that person can prove that the ((oil to which the damages relate entered the waters of the state by causes set forth in RCW 90.48.320(3))) discharge was caused solely by:

(a) An act of war or sabotage;

(b) An act of God;

(c) Negligence on the part of the United States government; or

(d) Negligence on the part of the state of Washington.

(3) The liability established in this section shall in no way affect the rights which (a) the owner or other person having control over the oil may have against any person whose acts may in any way have caused or contributed to the discharge of oil or (b) the state of Washington may have against any person whose actions may have caused or contributed to the discharge of oil.

(4) The chapter —, Laws of 1990 changes to subsection (2) of this section requiring the defenses in that subsection to be the sole causes of the

discharge, and the text of subsection (2)(b) of this section shall apply prospectively and not retroactively after the effective date of this section.

Sec. 19. Section 7, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.338 are each amended to read as follows:

In addition to any cause of action the state may have to recover necessary expenses for the cleanup of oil pursuant to RCW 90.48.325 and 90.48.350, and except as otherwise provided in section 25 of this act, any other person causing the entry of oil shall be directly liable to the state for the necessary expenses of oil cleanup arising from such entry and the state shall have a cause of action to recover from any or all of said persons. Except as otherwise provided in section 25 of this act, any person liable for cost of oil cleanup as provided in RCW 90.48.325 and 90.48.350 shall have a cause of action to recover for costs of cleanup from any other person causing the entry of oil into the waters of the state including any amount recoverable by the state as necessary expenses under RCW 90.48.350.

Sec. 20. Section 7, chapter 133, Laws of 1969 ex. sess. as last amended by section 9, chapter 388, Laws of 1989 and RCW 90.48.350 are each amended to read as follows:

Except as otherwise provided in section 25 of this act, any person who negligently discharges oil, or causes or permits the entry of the same, shall incur, in addition to any other penalty as provided by law, a penalty in an amount of up to twenty thousand dollars for every such violation, and for each day the spill poses risks to the environment as determined by the director. Any person who intentionally or recklessly discharges or causes or permits the entry of oil into the waters of the state shall incur, in addition to any other penalty authorized by law, a penalty of up to one hundred thousand dollars for every such violation and for each day the spill poses risks to the environment as determined by the director. The amount of the penalty shall be determined by the director after taking into consideration the gravity of the violation, the previous record of the violator in complying, or failing to comply, with the provisions of chapter 90.48 RCW, the speed and thoroughness of the collection and removal of the oil, and such other considerations as the director deems appropriate. Every act of commission or omission which procures, aids or abets in the violation shall be considered a violation under the provisions of this section and subject to the penalty herein provided for. The penalty herein provided for shall be imposed pursuant to RCW 43.21B.300.

Sec. 21. Section 3, chapter 133, Laws of 1969 ex. sess. as last amended by section 147, chapter 109, Laws of 1987 and RCW 90.48.330 are each amended to read as follows:

The department ~~((is authorized, with the staff, equipment and material under its control, or by contract with others, to))~~ shall take ~~((such actions~~

~~as are~~) all actions necessary to respond to a substantial threat of a discharge of oil or hazardous substances into the waters of this state or to collect, investigate, perform surveillance over, remove, contain, treat, or disperse oil or hazardous substances discharged into waters of the state. The department shall keep a record of all necessary expenses incurred in carrying out any project or activity authorized under this section, including a reasonable charge for the services performed by the state's personnel and the state's equipment and materials utilized. The authority granted hereunder shall be limited to projects and activities which are designed to protect the public interest or public property. The department may use staff, equipment, and material under its control, or contract with others, to carry out its responsibilities under this section.

Sec. 22. Section 4, chapter 133, Laws of 1969 ex. sess. as amended by section 5, chapter 88, Laws of 1970 ex. sess. and RCW 90.48.335 are each amended to read as follows:

Any person who ~~((fails to immediately collect, remove, contain, treat or disperse oil when under an obligation to do so as provided in RCW 90.48.325,))~~ unlawfully discharges oil or hazardous substances into the waters of the state or who poses a substantial threat of discharging oil or hazardous substances into the waters of the state shall be responsible for the necessary expenses incurred by the state in carrying out a project or activity authorized under RCW 90.48.330.

Sec. 23. Section 8, chapter 133, Laws of 1969 ex. sess. as amended by section 151, chapter 109, Laws of 1987 and RCW 90.48.355 are each amended to read as follows:

The department, through its duly authorized representatives, shall have the power to enter upon any private or public property, including the boarding of any ship, at any reasonable time, and the owner, managing agent, master or occupant of such property shall permit such entry for the purpose of investigating conditions relating to violations or possible violations of ~~((RCW 90.48.315 through 90.48.365))~~ this chapter, and to have access to any pertinent records relating to such property, including but not limited to operation and maintenance records and logs~~((~~PROVIDED; That in connection with~~))~~. The authority granted herein ((no person)) shall not be ((required)) construed to require any person to divulge trade secrets or secret processes. The director may issue subpoenas for the production of any books, records, documents, or witnesses in any hearing conducted pursuant to this chapter.

Sec. 24. Section 9, chapter 133, Laws of 1969 ex. sess. as amended by section 152, chapter 109, Laws of 1987 and RCW 90.48.360 are each amended to read as follows:

It shall be the duty of any person discharging oil or hazardous substances or otherwise causing, permitting, or allowing the same to enter the

waters of the state, unless the discharge or entry was expressly authorized by the department prior thereto or authorized by operation of law under RCW 90.48.200, to immediately notify the ~~((department at its office in Olympia, or a regional office thereof, of such discharge or entry))~~ coast guard and the division of emergency management. The notice to the division of emergency management within the department of community development shall be made to the division's twenty-four hour state-wide toll-free number established for reporting emergencies.

NEW SECTION. Sec. 25. (1) The following persons shall not be liable for necessary expenses or property damage caused by an act or omission of that person during the cleanup of oil spilled into the navigable waters of the state, unless the act or omission was performed in bad faith or with gross negligence:

(a) The state or any unit of local government;

(b) A person who volunteers to assist in the cleanup of the spilled oil;
and

(c) A person meeting the standards of section 4 of this act.

(2) This section shall not affect the liability of any person responsible for the spilled oil or responsible for the facility or covered vessel from which the oil was spilled.

NEW SECTION. Sec. 26. A new section is added to chapter 88.16 RCW to read as follows:

An oil tanker under escort of a tug or tugs pursuant to the provisions of RCW 88.16.190 shall not exceed the service speed of the tug or tugs that are escorting the oil tanker.

Sec. 27. Section 8, chapter 18, Laws of 1935 as last amended by section 2, chapter 264, Laws of 1987 and RCW 88.16.090 are each amended to read as follows:

(1) A person may pilot any vessel subject to the provisions of this chapter on waters covered by this chapter only if appointed and licensed to pilot such vessels on said waters under and pursuant to the provisions of this chapter.

(2) A person is eligible to be appointed a pilot if the person is a citizen of the United States, over the age of twenty-five years and under the age of seventy years, a resident of the state of Washington at the time of appointment and only if the pilot applicant holds as a minimum, a United States government license as a master of freight and towing vessels not more than one thousand gross tons (inspected vessel), such license to have been held by the applicant for a period of at least two years prior to taking the Washington state pilotage examination and a first class United States endorsement without restrictions on that license to pilot in the pilotage districts for which the pilot applicant desires to be licensed, and if the pilot applicant meets such other qualifications as may be required by the board.

A person applying for a license under this section shall not have been convicted of an offense involving drugs or the personal consumption of alcohol in the twelve months prior to the date of application. This restriction does not apply to license renewals under this section.

(3) Pilots shall be licensed hereunder for a term of five years from and after the date of the issuance of their respective state licenses. Such licenses shall thereafter be renewed as of course, unless the board shall withhold same for good cause. Each pilot shall pay to the state treasurer an annual license fee established by the board of pilotage commissioners pursuant to chapter 34.05 RCW, but not to exceed one thousand five hundred dollars, to be placed in the state treasury to the credit of the pilotage account. The board may assess partially active or inactive pilots a reduced fee.

(4) Pilot applicants shall be required to pass a written and oral examination administered and graded by the board which shall test such applicants on this chapter, the rules of the board, local harbor ordinances, and such other matters as may be required to compliment the United States examinations and qualifications. The board shall conduct the examination on a regular date, as prescribed by rule, at least once every two years.

(5) The board shall have developed five examinations and grading sheets for the Puget Sound pilotage district, and two for each other pilotage district, for the testing and grading of pilot applicants. The examinations shall be administered to pilot applicants on a random basis and shall be updated as required to reflect changes in law, rules, policies, or procedures. The board may appoint a special independent examination committee or may contract with a firm knowledgeable and experienced in the development of professional tests for development of said examinations. Active licensed state pilots may be consulted for the general development of examinations but shall have no knowledge of the specific questions. The pilot members of the board may participate in the grading of examinations. If the board does appoint a special examination development committee it is authorized to pay the members of said committee the same compensation and travel expenses as received by members of the board. When grading examinations the board shall carefully follow the grading sheet prepared for that examination. The board shall develop a "sample examination" which would tend to indicate to an applicant the general types of questions on pilot examinations, but such sample questions shall not appear on any actual examinations. Any person who willfully gives advance knowledge of information contained on a pilot examination is guilty of a gross misdemeanor.

(6) All pilots and applicants are subject to an annual physical examination by a physician chosen by the board. The physician shall examine the applicant's heart, blood pressure, circulatory system, lungs and respiratory system, eyesight, hearing, and such other items as may be prescribed by the board. After consultation with a physician and the United States coast guard, the board shall establish minimum health standards to ensure that

pilots licensed by the state are able to perform their duties. Within ninety days of the date of each annual physical examination, and after review of the physician's report, the board shall make a determination of whether the pilot or candidate is fully able to carry out the duties of a pilot under this chapter. The board may in its discretion check with the appropriate authority for any convictions of offenses involving drugs or the personal consumption of alcohol in the prior twelve months.

(7) The board shall prescribe, pursuant to chapter 34.05 RCW, a number of familiarization trips, between a minimum number of twenty-five and a maximum of one hundred, which pilot applicants must make in the pilotage district for which they desire to be licensed. Familiarization trips any particular applicant must make are to be based upon the applicant's vessel handling experience.

(8) The board may prescribe vessel simulator training for a pilot applicant, or pilot subject to RCW 88.16.105, as it deems appropriate, taking into consideration the economic cost of such training, to enhance that person's ability to perform pilotage duties under this chapter.

(9) The board shall prescribe, pursuant to chapter 34.05 RCW, such reporting requirements and review procedures as may be necessary to assure the accuracy and validity of license and service claims, and records of familiarization trips of pilot candidates. Willful misrepresentation of such required information by a pilot candidate shall result in disqualification of the candidate.

Sec. 28. Section 13, chapter 18, Laws of 1935 as last amended by section 1, chapter 392, Laws of 1987 and RCW 88.16.100 are each amended to read as follows:

(1) The board shall have power on its own motion or, in its discretion, upon the written request of any interested party, to investigate the performance of pilotage services subject to this chapter and to issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars, suspend, withhold, or revoke the license of any pilot, or any combination of the above, for misconduct, incompetency, inattention to duty, intoxication, or failure to perform his duties under this chapter, or violation of any of the rules or regulations provided by the board for the government of pilots. The board may partially or totally stay any disciplinary action authorized in this subsection and subsection (2) of this section. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(2) In all instances where a pilot licensed under this chapter performs pilot services on a vessel exempt under RCW 88.16.070, the board may on its own motion, or in its discretion upon the written request of any interested party, investigate whether the services were performed in a professional manner consistent with sound maritime practices. If the board finds that the

pilotage services were performed in a manner that constitutes an act of incompetence, misconduct, or negligence so as to endanger life, limb, or property, or violated or failed to comply with state laws or regulations intended to promote marine safety or to protect navigable waters, the board may issue a reprimand, impose a fine against a pilot in an amount not to exceed five thousand dollars, suspend, withhold, or revoke the state pilot license, or any combination of the above. The board shall have the power to require that a pilot satisfactorily complete a specific course of training or treatment.

(3) The board shall implement a system of specified disciplinary actions or corrective actions, including training or treatment, that will be taken when a state licensed pilot in a specified period of time has had multiple disciplinary actions taken against the pilot's license pursuant to subsections (1) and (2) of this section. In developing these disciplinary or corrective actions, the board shall take into account the cause of the disciplinary action and the pilot's previous record.

(4) The board shall immediately review the pilot's license of a pilot who has been convicted within the prior twelve months of any offense involving drugs or the personal consumption of alcohol while on duty, including an offense of operation of a vehicle or vessel while under the influence of alcohol or drugs. After a hearing held pursuant to subsection (5) of this section:

(a) The board shall order a pilot who has been found to have been convicted within the prior twelve months of an offense involving drugs or the personal consumption of alcohol while on duty and who has not been convicted of another offense involving drugs or the personal consumption of alcohol in the previous five years to actively participate in and satisfactorily complete a specific program of treatment. The board may impose other sanctions it determines are appropriate. If the pilot does not satisfactorily complete the program of treatment, the board shall suspend, revoke, or withhold the pilot's license until the treatment is completed; and

(b) The board shall suspend for up to one year the license of a pilot found to have been convicted within the prior twelve months of a second or subsequent offense involving drugs or the personal consumption of alcohol while on duty.

(5) When the board determines that reasonable cause exists to issue a reprimand, impose a fine, suspend, revoke, or withhold any pilot's license or require training or treatment under subsection (1) ((or)), (2), or (4) of this section, it shall forthwith prepare and personally serve upon such pilot a notice advising him of the board's intended action, the specific grounds therefor, and the right to request a hearing to challenge the board's action. The pilot shall have thirty days from the date on which notice is served to request a full hearing before an administrative law judge on the issue of the reprimand, fine, suspension, revocation, or withholding of his pilot's license,

or requiring treatment or training. The board's proposed reprimand, fine, suspension, revocation, or withholding of a license, or requiring treatment or training shall become final upon the expiration of thirty days from the date notice is served, unless a hearing has been requested prior to that time. When a hearing is requested the board shall request the appointment of an administrative law judge under chapter 34.12 RCW who has sufficient experience and familiarity with pilotage matters to be able to conduct a fair and impartial hearing. The hearing shall be governed by the provisions of Title 34 RCW. All final decisions of the administrative law judge shall be subject to review by the superior court of the state of Washington for Thurston county or by the superior court of the county in which the pilot maintains his residence or principal place of business, to which court any case with all the papers and proceedings therein shall be immediately certified by the administrative law judge if requested to do so by any party to the proceedings at any time within thirty days after the date of any such final decision. No appeal may be taken after the expiration of thirty days after the date of final decision. Any case so certified to the superior court shall be tried de novo and after certification of the record to said superior court the proceedings shall be had as in a civil action. Moneys collected from fines under this section shall be deposited in the pilotage account.

~~((5))~~ (6) The board shall have the power, on an emergency basis, to temporarily suspend a state pilot's license: (a) When a pilot has been involved in any vessel accident where there has been major property damage, loss of life, or loss of a vessel, or (b) where there is a reasonable cause to believe that a pilot has diminished mental capacity or is under the influence of drugs, alcohol, or other substances, when in the opinion of the board, such an accident or physical or mental impairment would significantly diminish that pilot's ability to carry out pilotage duties and that the public health, safety, and welfare requires such emergency action. The board shall make a determination within seventy-two hours whether to continue the suspension. The board shall develop rules for exercising this authority including procedures for the chairperson or vice-chairperson of the board to temporarily order such suspensions, emergency meetings of the board to consider such suspensions, the length of suspension, opportunities for hearings, and an appeal process. The board shall develop rules under chapter 34.05 RCW.

(7) The board shall immediately notify the United States coast guard that it has revoked or suspended a license pursuant to this section and that a suspended or revoked license has been reinstated.

Sec. 29. Section 1, chapter 2, Laws of 1989 1st ex. sess. and RCW 88-40.005 are each amended to read as follows:

The legislature recognizes that oil and hazardous substance spills and other forms of incremental pollution present serious danger to the fragile marine environment of Washington state. It is the intent and purpose of this

chapter to define and prescribe financial responsibility requirements for vessels that transport petroleum products and hazardous substances across the waters of the state of Washington.

Sec. 30. Section 2, chapter 2, Laws of 1989 1st ex. sess. and RCW 88-.40.010 are each amended to read as follows:

The following definitions apply throughout this chapter:

(1) "Department" means the state department of ecology;

(2) "Hazardous substances" means any hazardous substance as defined in RCW 70.105.010 or any hazardous substance defined by rule pursuant to chapter 70.105 RCW;

(3) "Inland barge" means any barge operating on the waters of the state and certified by the coast guard as an inland barge;

(4) "Petroleum products" means oil as it is defined in RCW 90.48.315;

~~((=))~~ (5) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water but does not include an inland barge.

Sec. 31. Section 3, chapter 2, Laws of 1989 1st ex. sess. and RCW 88-.40.020 are each amended to read as follows:

Any vessel over three hundred gross tons, that transports petroleum products as cargo, and any inland barge that transports oil or hazardous substances as cargo, using any port or place in the state of Washington or the navigable waters of the state shall establish, under rules prescribed by the director of the department of ecology, evidence of financial responsibility in the amount of the greater of one million dollars, or one hundred fifty dollars per gross ton of such vessel, to meet the liability to the state of Washington for the following: (1) The actual costs for removal of spills of petroleum products or hazardous substances; (2) civil penalties and fines; and (3) natural resource damages.

Sec. 32. Section 4, chapter 2, Laws of 1989 1st ex. sess. and RCW 88-.40.030 are each amended to read as follows:

Financial responsibility may be established by any one of, or a combination of, the following methods acceptable to the director of the department of ecology: (1) Evidence of insurance; (2) surety bonds; (3) qualification as a self-insurer; or (4) other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. Documentation of such financial responsibility shall be kept on any barge or tank vessel transporting petroleum products or hazardous substances as cargo and filed with the department. The owner or operator of any other vessel shall maintain on the vessel a certificate issued by the United States coast guard evidencing compliance with the requirements of section 311 of the federal clean water act, 33 U.S.C. Sec. 1251 et seq.

NEW SECTION. Sec. 33. If specific funding for the purposes of this act, referencing this act by bill number, is not provided by June 30, 1990, in the omnibus appropriations act, this act shall be null and void. This section does not apply to sections 17 through 32 and 35 of this act.

NEW SECTION. Sec. 34. Sections 3 through 10, 12, 13, 15, 16, and 25 of this act are each added to chapter 90.48 RCW.

NEW SECTION. Sec. 35. 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 6, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 117

[Substitute Senate Bill No. 6701]

OIL SPILL RESPONSE SYSTEM—MARITIME COMMISSION

AN ACT Relating to the maritime commission and oil spill response system; adding a new chapter to Title 88 RCW; prescribing penalties; and providing effective dates.

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

NEW SECTION. Sec. 1. **PURPOSE.** The natural waters of Washington state hold a dual purpose. First, Washington state's waters are one of the most abundantly alive water bodies in the world. The amount of biota, diversity of species, and unique character of habitat makes these waters a natural wonder. Second, these same waters provide one of the most vital maritime trade links for our state, our nation, and for the Pacific Rim.

The future of Washington's waters lies in both purposes. But, at times in the past, maritime accidents have occurred from oil spills which have endangered this unique environment. While some of the commercial vessels which carry petroleum on the water have, already, voluntarily joined organizations to provide immediate oil spill response, not all vessels are so protected.

All commercial vessels which enter Washington waters must have the protection of an oil spill response system. This is a responsibility of the maritime industry and must be taken care of by that industry. Therefore, this chapter creates the Washington state maritime commission to establish an oil spill first response system and carry out the purposes of this chapter to protect the waters of Washington state.

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

(1) "Business class" means a recognized trade segment of the maritime industry.

(2) "Commission" means the Washington state maritime commission.

(3) "Director" means the director of the department of ecology or their duly authorized representative.

(4) "Fishing vessel" means a vessel that commercially engages in: (a) Catching, taking, or harvesting fish; (b) preparing fish or fish products; or (c) supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish.

(5) "Foreign vessel" means a vessel of foreign registry or operated under the authority of a country, except the United States.

(6) "Oil" or "oils" means oil, including gasoline, crude oil, fuel oil, diesel oil, lubricating oil, sludge, oil refuse, liquid natural gas, propane, butane, oils distilled from coal, and other liquid hydrocarbons regardless of specific gravity, or any other petroleum related products.

(7) "Oceanographic research vessel" means a vessel that is employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including those studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

(8) "Protection and indemnity club" means a mutual insurance organization formed by a group of shipowners or operators in order to secure cover for various risks of vessel operation, including oil spill costs, not covered by normal hull insurance.

(9) "Public vessel" means a vessel that is owned, or chartered and operated by the United States government, by a state of the United States, or a government of a foreign country and is not engaged in commercial service.

(10) "State" means a state of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(11) "Steamship agent or agency" means an agent or agency appointed by a vessel owner or operator to enter or clear vessels at ports within the state of Washington and to conduct onshore activities, or contract on behalf of the owner or operator for whatever is required for the efficient operation of the vessel.

(12) "Steamship liner company" means a steamship company maintaining a regular schedule of calls at designated ports of the state of Washington.

(13) "Towboat" means a commercial vessel engaged in, or intending to engage in, the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(14) "United States flag vessel" means a vessel documented under the laws of the United States or registered under the laws of any state of the United States.

(15) "Vessel" means every description of watercraft, other than a sea-plane on water, used or capable of being used as a means of transportation on water, carrying oil as fuel or cargo, and over three hundred gross registered tons, except oceanographic research vessels, public vessels, vessels being employed exclusively for pleasure, or vessels which, prior to entering Washington waters, have formerly arranged with an officially recognized cleanup cooperative or with a private cleanup contractor for immediate oil spill response.

(16) "Vessel owner or operator" means the legal owner of a vessel and/or the charterer or other person in charge of the day-to-day operation.

(17) "Waters of this state" or "waters of the state of Washington" shall mean all navigable waters within the state of Washington as defined in Article 24, section 1 of the state Constitution.

NEW SECTION. Sec. 3. COMMISSION CREATED—GENERALLY—POWERS AND DUTIES. There is created a Washington state maritime commission to be known and designated and declared a corporate body. The powers and duties of the commission shall include the following:

(1) To elect a chairperson and such other officers as it deems advisable; and to adopt, rescind, and amend rules and orders for the exercise of its powers, which shall have the force and effect of the law when not inconsistent with existing laws;

(2) To administer and enforce the provisions of this chapter, and do all things reasonably necessary to effectuate the purposes of this chapter;

(3) To employ, and at its pleasure discharge, a manager, secretary, agents, attorneys, consultants, companies, organizations, and employees as it deems necessary, and to prescribe their duties and powers and fix their compensation;

(4) To establish offices, incur expenses, enter into contracts, and create such liabilities as may be reasonable for the proper administration and enforcement of this chapter;

(5) To assess vessels transiting the waters of this state, to collect such assessments, investigate violations, and enforce the provisions of this chapter, except for vessels which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon;

(6) To keep accurate record of all of its dealings, which shall be open to inspection and audit by the state auditor;

(7) To sue and be sued, adopt a corporate seal, and have all of the powers of a corporation;

(8) To expend funds for commission-related education and training programs as the commission deems appropriate;

(9) To borrow money and incur indebtedness;

(10) To establish an oil spill first response system, except for vessels which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon. This system will provide a mandatory emergency response communications network for vessels involved in commerce in Washington waters, and provide an immediate response to such vessels which, for whatever reason, discharge oil into the state's waters. In the event of an oil spill or threatened oil spill, the system must be able to provide a complete response for the first twenty-four hours after the initial report, which may include, but not be limited to, as needed, response vessel or vessels, boom equipment, skimmers, qualified personnel, and wildlife care centers.

The commission may establish, by or before July 1, 1992, an oil spill first response system for vessels which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon;

(11) To enter into contracts with cleanup contractors to provide spill response, or with other organizations or companies for communication services;

(12) To recover oil spill first response system costs from a responsible vessel owner or operator in the event of a spill or threatened release;

(13) To hold response readiness drills with state and federal agencies;

(14) To work with other states' and countries' maritime organizations, cleanup cooperatives, and governmental response agencies; and

(15) To develop an oil spill contingency plan to comply with state statutes and rules for those vessels covered by the commission, except for vessels operating on the portion of the Columbia river that runs between the states of Washington and Oregon. The commission shall develop an oil spill contingency plan for vessels which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon, not later than January 1, 1993.

NEW SECTION. Sec. 4. MEMBERS—ELECTION—TERMS—MEETINGS. The commission shall be comprised of nine voting members. Six persons, each representing a specific business class, shall be elected to membership in the commission and one person shall be appointed by the commission members. Two of the members shall represent steamship liner companies, one American flag and one foreign flag. One member shall represent towboat companies. One member shall represent fishing vessels. One member shall represent steamship agencies serving tramp vessels. One member shall represent protection and indemnity clubs or other marine brokers or insurers of oil spill cleanup costs for vessels operating in Washington waters. One member shall represent steamship agencies serving tramp vessels on the Columbia river. One member with maritime, marine labor, or marine spill cleanup experience and one member from the environmental community with marine experience shall be appointed from the public by the governor. In addition, the director, the

United States coast guard captain of the port for Puget Sound, the United States coast guard captain of the port for that portion of the Columbia river that runs between Washington and Oregon, and a state pilot licensed under chapter 88.16 RCW, who pilots in the waters of the state of Washington or their designees will serve as nonvoting ex officio members. The state-licensed pilot shall be selected by the Washington state board of pilotage commissioners.

Members of the commission must have had a minimum of five years' experience in their business class and be actively employed by or on behalf of a company within the business class for whom they shall represent. However, the protection and indemnity or insurance member may be a designee of the international group of protection and indemnity clubs, or any such marine insurers engaged in business within the state.

The commission shall meet at least quarterly every year.

NEW SECTION. Sec. 5. **TERMS—VACANCIES.** The regular term of office of the members of the commission shall be three years from July 1 following their election and until their successors are elected and qualified. The commission shall hold its annual meeting during the month of October each year for the purpose of electing officers and the transaction of other business and shall hold such other meetings during the year as it shall determine.

Commission members shall be first nominated and elected in 1990 in the manner set forth in section 6 of this act and shall take office as soon as they are qualified. However, expiration of the term of the respective commission members first elected in 1990 shall be as follows:

- (1) Foreign flag liner and fishing vessel members on July 1, 1991;
- (2) Protection and indemnity club or marine member, and public member on July 1, 1992; and
- (3) All other members on July 1, 1993.

The respective terms shall end on June 30 of each third year thereafter. Any vacancies that occur on the commission shall be filled by appointment of an eligible person by the other members of the commission, and such appointee shall hold office for the remainder of the term for which they are appointed to fill, so that commission memberships shall be on a uniform staggered basis.

NEW SECTION. Sec. 6. **NOMINATION AND ELECTION PROCEDURE.** Members of the commission shall be nominated and elected by companies within the business class that the members represent in 1990 and thereafter in the year in which a commission member's term expires. Such members receiving the largest number of the votes cast in the respective business class which they represent shall be elected. The election shall be by secret mail ballot and under the supervision of the director. Each protection and indemnity association and each company and its subsidiaries within the business class shall be entitled to one vote.

Nomination for candidates to be elected to the commission shall be conducted by mail by the director. Such nomination forms shall be mailed by the director to each business class where a vacancy is about to occur. Such mailing shall be made on or after April 1st, but not later than April 10th of the year the commission vacancy will occur. The nomination form shall provide for the name of the member being nominated and the names of three affected companies nominating the nominee. The companies nominating the nominee shall affix their signatures to the form and shall further attest that the nominee meets the qualifications for that business class to serve on the commission and that they will be willing to serve on the commission if elected.

All nominations shall be returned to the director by April 30, and the director shall not accept any nomination postmarked later than midnight April 30, nor place such candidate on the election ballot. In any case where there is but one nomination for a position, a secret mail ballot shall not be conducted or required and the director shall certify the candidate to be elected.

Ballots for electing members to the commission shall be mailed by the director to all eligible companies in each business class no later than May 15th, and be returned to the director in Olympia by June 10.

Whenever affected companies fail to file any nominating petitions, the director shall nominate at least two, but not more than three, qualified members and place their names on the secret mail election ballot as nominees. Any qualified member may be elected by a write-in ballot, even though the member's name was not placed in nomination for the election. If a nominee does not receive a majority of the votes on the first ballot, a runoff election shall be held by mail in a similar manner between the two candidates for the position receiving the largest number of votes.

For the first election in 1990 of commission members, all companies of an identified business class may vote in the election; for all subsequent elections, only those businesses in a business class that have a vessel covered by the commission may vote.

NEW SECTION. Sec. 7. COMPANIES' LISTS. The commission shall, prior to each election, in sufficient time, furnish the director with a list of all companies within each affected business class for which the election is being held. Any company may on their own motion file their name with the commission for the purpose of receiving notice of election.

NEW SECTION. Sec. 8. REIMBURSEMENT OF ELECTION COSTS. The commission shall reimburse the director for the necessary costs of conducting elections under the provisions of this chapter.

NEW SECTION. Sec. 9. QUORUM—COMPENSATION—TRAVEL EXPENSES—RESIGNATION—REMOVAL OF COMMISSION MEMBERS. A majority of the voting members of the commission shall constitute a quorum for the transaction of all business and the carrying out of the duties of the commission.

Each member of the commission shall be compensated in accordance with RCW 43.03.240 and shall be reimbursed for actual travel expenses incurred in carrying out the provisions of this chapter. Employees of the commission may also be reimbursed for actual travel expenses when out-of-state on official commission business. Compensation and reimbursement shall be from commission funds only.

Resignations of commission members will be filled by a majority of the remaining commission members. The appointed commission members shall serve out the remaining term. If a commission member leaves the employment of their respective business class for more than one hundred twenty days, the commission member must resign from that position. A commission member may be removed from the commission for just cause by a two-thirds majority vote of commission members.

NEW SECTION. Sec. 10. COMMISSION RECORDS AS EVIDENCE. Copies of the proceedings, records, and acts of the commission, when certified by the secretary and authenticated by the corporate seal, shall be admissible in any court as prima facie evidence of the truth of the statements contained therein.

NEW SECTION. Sec. 11. ASSESSMENTS LEVIED. There is levied on and after October 1, 1990, an assessment upon all vessels, or the owners or operators thereof, which transit upon waters of this state, except as exempted herein and not including vessels which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon, an assessment to be set by the commission on each vessel transit, plus annual increases as are imposed pursuant to the provisions of section 12 of this act. Vessels which show proof to the commission or the department of ecology that they have previously and individually arranged with an officially recognized cleanup cooperative or with a private cleanup contractor to provide immediate response capabilities in the event of an oil spill or threatened release, are exempt from assessment under this chapter. Of those vessels assessed, the commission may set the rate. When the fund reaches one million five hundred thousand dollars, the commission shall discontinue the assessment until the fund declines to one million dollars, at which time the assessment must be reinstated. The assessment, at a minimum, must be able to generate the maximum fund level within four years. All moneys collected hereunder shall be expended to effectuate the purpose and objects of this chapter.

There may be levied on and after January 1, 1992, an assessment upon all vessels, or the owners or operators thereof, which transit upon the portion of the Columbia river that runs between the states of Washington and Oregon.

NEW SECTION. Sec. 12. INCREASE IN ASSESSMENTS—
GROUND—PROCEDURE. If it appears from investigation by the commission that the revenue from the assessment levied on vessels under this chapter is inadequate to accomplish the purposes of this chapter, the commission shall adopt a resolution setting forth the necessities of the industry, the extent and probable cost of the required research, spill cleanup procedures and operations, public and industry education, administrative operations, the extent of public convenience, interest, and necessity, and probable revenue from the assessment levied. After the proper regulatory hearings, the commission may increase the assessment to a sum determined by the commission to be necessary for those purposes. An increase becomes effective ninety days after the resolution is adopted or on any other date provided for in the resolution.

NEW SECTION. Sec. 13. COLLECTION—ASSESSMENT—
LIEN. The commission shall, by rule, prescribe the method of collection for the assessment or recovery of oil spill first response system costs. If a vessel owner or operator fails to remit any assessments or recovery costs, the sum shall, in addition to penalties provided in this chapter, be a lien on the responsible vessel, which lien shall be enforced in accordance with applicable law.

NEW SECTION. Sec. 14. RECORDS KEPT BY VESSEL OWNERS, OPERATORS, OR AGENTS. Each vessel owner, operator, or agent shall keep a complete and accurate record of all vessel transits. This record shall be in such form and contain such information as the commission may by rule prescribe, and shall be preserved for a period of two years, and be subject to inspection at any time upon demand of the commission or its agents.

NEW SECTION. Sec. 15. RIGHT TO SUBPOENA. The commission shall have the right to subpoena the records of any vessel owner, operator, or agent for the purpose of enforcing this chapter and the collection of the assessment or recovery costs.

NEW SECTION. Sec. 16. MANAGER—SECRETARY—TREASURER—TREASURER'S BOND. The commission shall elect a manager, who is not a member, and fix his or her compensation; and shall appoint a secretary and/or treasurer, who shall sign all vouchers and receipts for all moneys received by the commission. The treasurer shall file with the commission a fidelity bond in the sum of one hundred thousand dollars, executed by a surety company authorized to do business in the

state, in favor of the commission, conditioned for the faithful performance of his or her duties and strict accounting of all funds to the commission.

All money received by the commission, or by any state official on behalf of the commission, from the assessment herein levied, shall be paid to the treasurer, deposited in banks, which are approved state depositories, retained in separate commission accounts as the commission may designate, and disbursed by order of the commission. None of the provisions of RCW 43.01.050 shall apply to money collected under this chapter.

NEW SECTION. Sec. 17. RULES—FILING—PUBLICATION. Rules and orders adopted by the commission shall be filed with the director and shall become effective pursuant to the provisions of the administrative procedure act.

NEW SECTION. Sec. 18. ENFORCEMENT. Employees and agents of the commission shall be empowered to enforce this chapter. The superior courts are hereby vested with jurisdiction to enforce the provisions of this chapter and the rules of the commission issued under this chapter.

NEW SECTION. Sec. 19. CLAIMS ENFORCEABLE AGAINST COMMISSION ASSETS—NONLIABILITY OF OTHER PERSONS AND ENTITIES—EXCEPTION. Obligations incurred by the commission and any other liabilities or claims against the commission shall be enforced only against the assets of the commission, and no liability for the debts or actions of the commission exists against either the state of Washington or any subdivision or instrumentality thereof, or against any member, officer, employee, or agent of the commission in his or her individual or representative capacity. Except as otherwise provided in this chapter, neither the members of the commission, its officers, agents, nor employees nor the business entities by whom the members are regularly employed may be held individually responsible for errors in judgment, mistakes, or other acts, either of commission or omission, as principal, agent, person, or employee, save for their own individual acts of dishonesty or crime.

NEW SECTION. Sec. 20. PENALTIES. Any vessel, vessel owner, or operator who violates any provision of this chapter or rule of the commission shall be subject to a civil penalty not to exceed one thousand dollars.

NEW SECTION. Sec. 21. FINANCING ASSISTANCE FOR COMMISSION. The legislature finds that, in order to permit the commission to accomplish more efficiently its important public purposes, as enumerated in section 3 of this act, the commission may issue bonds or obtain loans secured by commission funds derived from membership assessment.

NEW SECTION. Sec. 22. BONDS OR LOANS SHALL BE ISSUED ONLY AFTER CERTIFICATION OF SUFFICIENCY OF FUNDS. The bonds or loans authorized by the commission shall be issued only after the treasurer of the commission has certified that the net proceeds of the bonds or loans together with all money to be made available by the

commission for the purposes described in section 3 of this act, shall be sufficient for such purposes; and also that, based upon the treasurer's estimates of future income from assessments levied pursuant to section 11 of this act and other sources, an adequate balance will be maintained in the commission's general fund to enable the commission to pay the costs of bond issuance and retirement or loan repayment, including interests and costs.

NEW SECTION. Sec. 23. CAPTIONS NOT LAW. Section headings as used in this chapter do not constitute any part of the law.

NEW SECTION. Sec. 24. SEVERABILITY. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 25. EFFECTIVE DATES. This act shall take effect July 1, 1990, except for section 3 (10), (12), (13), and (15) of this act which shall take effect July 1, 1991; except as otherwise provided in section 3(5), (10), and (15), and section 11 of this act.

NEW SECTION. Sec. 26. Sections 1 through 25 of this act shall constitute a new chapter in Title 88 RCW.

Passed the Senate March 5, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 118

[House Bill No. 2525]

RADIO COMMUNICATIONS SERVICES REGULATION—EXCEPTIONS

AN ACT Relating to regulation of radio communications services; and amending RCW 80.36.370.

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

Sec. 1. Section 9, chapter 450, Laws of 1985 and RCW 80.36.370 are each amended to read as follows:

The commission shall not regulate the following:

(1) One way broadcast or cable television transmission of television or radio signals;

(2) Private telecommunications systems;

(3) Telegraph services;

(4) Any sale, lease, or use of customer premises equipment except such equipment as is regulated on July 28, 1985;

(5) Private shared telecommunications services, unless the commission finds, upon notice and investigation, that customers of such services have no alternative access to local exchange telecommunications companies. If the

commission makes such a finding, it may require the private shared telecommunications services provider to make alternative facilities or conduit space available on reasonable terms and conditions at reasonable prices((-));

(6) Radio communications services provided by a regulated telecommunications company, except that when those services are the only voice grade, local exchange telecommunications service available to a customer of the company the commission may regulate the radio communication service of that company.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 119

[Substitute House Bill No. 3001]

HEALTH MAINTENANCE ORGANIZATIONS—SOLVENCY PROTECTION

AN ACT Relating to solvency protection for health maintenance organizations; amending RCW 48.46.020, 48.46.030, 48.46.040, 48.46.240, 48.46.420, and 48.80.030; adding new sections to chapter 48.46 RCW; repealing RCW 48.46.230; and prescribing penalties.

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

Sec. 1. Section 3, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 106, Laws of 1983 and RCW 48.46.020 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 indicates otherwise.

(1) "Health maintenance organization" means any organization receiving a certificate of ((authority)) registration by the commissioner under this chapter which provides comprehensive health care services to enrolled participants of such organization on a group practice per capita prepayment basis or on a prepaid individual practice plan, except for an enrolled participant's responsibility for copayments and/or deductibles, either directly or through contractual or other arrangements with other institutions, entities, or persons, and which qualifies as a health maintenance organization pursuant to RCW 48.46.030 and 48.46.040.

(2) "Comprehensive health care services" means basic consultative, diagnostic, and therapeutic services rendered by licensed health professionals together with emergency and preventive care, inpatient hospital, outpatient and physician care, at a minimum, and any additional health care services offered by the health maintenance organization.

(3) "Enrolled participant" means a person who or group of persons which has entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health maintenance organization to receive health care services.

(4) "Health professionals" means health care practitioners who are (~~licensed under the provisions of chapters 18.22, 18.25, 18.29, 18.32, 18.34, 18.53, 18.57, 18.57A, 18.64, 18.71, 18.71A, 18.74, 18.78, 18.83, or 18.88 RCW~~) regulated by the state of Washington.

(5) "Health maintenance agreement" means an agreement for services between a health maintenance organization which is registered pursuant to the provisions of this chapter and enrolled participants of such organization which provides enrolled participants with comprehensive health services rendered to enrolled participants by health professionals, groups, facilities, and other personnel associated with the health maintenance organization.

(6) "Consumer" means any member, subscriber, enrollee, beneficiary, or other person entitled to health care services under terms of a health maintenance agreement, but not including health professionals, employees of health maintenance organizations, partners, or shareholders of stock corporations licensed as health maintenance organizations.

(7) "Meaningful role in policy making" means a procedure approved by the commissioner which provides consumers or elected representatives of consumers a means of submitting the views and recommendations of such consumers to the governing board of such organization coupled with reasonable assurance that the board will give regard to such views and recommendations.

(8) "Meaningful grievance procedure" means a procedure for investigation of consumer grievances in a timely manner aimed at mutual agreement for settlement according to procedures approved by the commissioner, and which may include arbitration procedures.

(9) "Provider" means any health professional, hospital, or other institution, organization, or person that furnishes any health care services and is licensed or otherwise authorized to furnish such services.

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

(11) "Commissioner" means the insurance commissioner.

(12) "Group practice" means a partnership, association, corporation, or other group of health professionals:

(a) The members of which may be individual health professionals, clinics, or both individuals and clinics who engage in the coordinated practice of their profession; and

(b) The members of which are compensated by a prearranged salary, or by capitation payment or drawing account that is based on the number of enrolled participants.

(13) "Individual practice health care plan" means an association of health professionals in private practice who associate for the purpose of providing prepaid comprehensive health care services on a fee-for-service or capitation basis.

(14) "Uncovered expenditures" means the costs to the health maintenance organization of health care services that are ~~((covered by a))~~ the obligation of the health maintenance organization for which an enrolled participant would also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health maintenance organization, or for services that are guaranteed, insured, or assumed by a person or organization other than the health maintenance organization.

(15) "Copayment" means an amount specified in a subscriber agreement which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(16) "Deductible" means the amount an enrolled participant is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment.

(17) "Fully subordinated debt" means those debts that meet the requirements of section 5(3) of this act and are recorded as equity.

(18) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

(19) "Participating provider" means a provider as defined in subsection (9) of this section who contracts with the health maintenance organization or with its contractor or subcontractor and has agreed to provide health care services to enrolled participants with an expectation of receiving payment, other than copayment or deductible, directly or indirectly, from the health maintenance organization.

(20) "Carrier" means a health maintenance organization, an insurer, a health care services contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual agreement.

(21) "Replacement coverage" means the benefits provided by a succeeding carrier.

(22) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

Sec. 2. Section 4, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 320, Laws of 1985 and RCW 48.46.030 are each amended to read as follows:

Any corporation, cooperative group, partnership, individual, association, or groups of health professionals licensed by the state of Washington, public hospital district, or public institutions of higher education shall be entitled to a certificate of registration from the insurance commissioner as a health maintenance organization if it:

(1) Provides comprehensive health care services to enrolled participants on a group practice per capita prepayment basis or on a prepaid individual practice plan and provides such health services either directly or through arrangements with institutions, entities, and persons which its enrolled population might reasonably require as determined by the health maintenance organization in order to be maintained in good health; and

(2) Is governed by a board elected by enrolled participants, or otherwise provides its enrolled participants with a meaningful role in policy making procedures of such organization, as defined in RCW 48.46.020(7), and 48.46.070; and

(3) Affords enrolled participants with a meaningful grievance procedure aimed at settlement of disputes between such persons and such health maintenance organization, as defined in RCW 48.46.020(8) and 48.46.100; and

(4) Provides enrolled participants, or makes available for inspection at least annually, financial statements pertaining to health maintenance agreements, disclosing income and expenses, assets and liabilities, and the bases for proposed rate adjustments for health maintenance agreements relating to its activity as a health maintenance organization; and

(5) Demonstrates to the satisfaction of the commissioner that its facilities and personnel are reasonably adequate to provide comprehensive health care services to enrolled participants and that it is financially capable of providing such members with, or has made adequate contractual arrangements through insurance or otherwise to provide such members with, such health services; and

(6) Substantially complies with administrative rules and regulations of the commissioner for purposes of this chapter; and

(7) Submits an application for a certificate of registration which shall be verified by an officer or authorized representative of the applicant, being in form as the commissioner prescribes, and setting forth:

(a) A copy of the basic organizational document, if any, of the applicant, such as the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents, and all amendments thereto;

(b) A copy of the bylaws, rules and regulations, or similar documents, if any, which regulate the conduct of the internal affairs of the applicant, and all amendments thereto;

(c) A list of the names, addresses, members of the board of directors, board of trustees, executive committee, or other governing board or committee and the principal officers, partners, or members;

(d) A full and complete disclosure of any financial interests held by any officer, or director in any provider associated with the applicant or any provider of the applicant;

(e) A description of the health maintenance organization, its facilities and its personnel, and the applicant's most recent financial statement showing such organization's assets, liabilities, income, and other sources of financial support;

(f) A description of the geographic areas and the population groups to be served and the size and composition of the anticipated enrollee population;

(g) A copy of each type of health maintenance agreement to be issued to enrolled participants;

(h) A schedule of all proposed rates of reimbursement to contracting health care facilities or providers, if any, and a schedule of the proposed charges for enrollee coverage for health care services, accompanied by data relevant to the formulation of such schedules;

(i) A description of the proposed method and schedule for soliciting enrollment in the applicant health maintenance organization and the basis of compensation for such solicitation services;

(j) A copy of the solicitation document to be distributed to all prospective enrolled participants in connection with any solicitation;

(k) A financial projection which sets forth the anticipated results during the initial two years of operation of such organization, accompanied by a summary of the assumptions and relevant data upon which the projection is based. The projection should include the projected expenses, enrollment trends, income, enrollee utilization patterns, and sources of working capital;

(l) A detailed description of the enrollee complaint system as provided by RCW 48.46.100;

(m) A detailed description of the procedures and programs to be implemented to assure that the health care services delivered to enrolled participants will be of professional quality; ~~(and)~~

(n) A detailed description of procedures to be implemented to meet the requirements to protect against insolvency in section 8 of this act;

(o) Documentation that the health maintenance organization has an initial net worth of one million dollars and shall thereafter maintain the minimum net worth required under section 5 of this act; and

(p) Such other information as the commissioner shall require by rule or regulation which is reasonably necessary to carry out the provisions of this section.

A health maintenance organization shall, unless otherwise provided for in this chapter, file a notice describing any modification of any of the information required by subsection (7) of this section. Such notice shall be filed with the commissioner.

Sec. 3. Section 5, chapter 290, Laws of 1975 1st ex. sess. as last amended by section 223, chapter 9, Laws of 1989 1st ex. sess. and RCW 48.46.040 are each amended to read as follows:

The commissioner shall issue a certificate of registration to the applicant within sixty days of such filing unless he notifies the applicant within such time that such application is not complete and the reasons therefor; or that he is not satisfied that:

(1) The basic organizational document of the applicant permits the applicant to conduct business as a health maintenance organization;

(2) The organization has demonstrated the intent and ability to assure that comprehensive health care services will be provided in a manner to assure both their availability and accessibility;

(3) The organization is financially responsible and may be reasonably expected to meet its obligations to its enrolled participants. In making this determination, the commissioner shall consider among other relevant factors:

(a) Any agreements with an insurer, a medical or hospital service bureau, a government agency or any other organization paying or insuring payment for health care services;

(b) Any agreements with providers for the provision of health care services; ~~(and)~~

(c) Any arrangements for liability and malpractice insurance coverage; and

(d) Adequate procedures to be implemented to meet the protection against insolvency requirements in section 8 of this act.

(4) The procedures for offering health care services and offering or terminating contracts with enrolled participants are reasonable and equitable in comparison with prevailing health insurance subscription practices and health maintenance organization enrollment procedures; and, that

(5) Procedures have been established to:

(a) Monitor the quality of care provided by such organization, including, as a minimum, procedures for internal peer review;

(b) Resolve complaints and grievances initiated by enrolled participants in accordance with RCW 48.46.010 and 48.46.100;

(c) Offer enrolled participants an opportunity to participate in matters of policy and operation in accordance with RCW 48.46.020(7) and 48.46.070.

No person to whom a certificate of registration has not been issued, except a health maintenance organization certified by the secretary of the department of health ~~(, education and welfare)~~ and human services, pursuant to Public Law 93-222 or its successor, shall use the words "health maintenance organization" or the initials "HMO" in its name, contracts, or literature. Persons who are contracting with, operating in association with, recruiting enrolled participants for, or otherwise authorized by a health maintenance organization possessing a certificate of registration to act on its behalf may use the terms "health maintenance organization" or "HMO"

for the limited purpose of denoting or explaining their relationship to such health maintenance organization.

The department of health, at the request of the insurance commissioner, shall inspect and review the facilities of every applicant health maintenance organization to determine that such facilities are reasonably adequate to provide the health care services offered in their contracts. If the commissioner has information to indicate that such facilities fail to continue to be adequate to provide the health care services offered, the department of health, upon request of the insurance commissioner, shall reinspect and review the facilities and report to the insurance commissioner as to their adequacy or inadequacy.

NEW SECTION. Sec. 4. A new section is added to chapter 48.46 RCW to read as follows:

(1) Any rehabilitation, liquidation, or conservation of a health maintenance organization shall be deemed to be the rehabilitation, liquidation, or conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner may apply for an order directing the commissioner to rehabilitate, liquidate, or conserve a health maintenance organization upon any one or more grounds set out in RCW 48.31.030, 48.31.050, and 48.31.080. Enrolled participants shall have the same priority in the event of liquidation or rehabilitation as the law provides to policyholders of an insurer.

(2) For purposes of determining the priority of distribution of general assets, claims of enrolled participants and enrolled participants' beneficiaries shall have the same priority as established by RCW 48.31.280 for policyholders and beneficiaries of insureds of insurance companies. If an enrolled participant is liable to any provider for services provided pursuant to and covered by the health maintenance agreement, that liability shall have the status of an enrolled participant claim for distribution of general assets.

(3) A provider who is obligated by statute or agreement to hold enrolled participants harmless from liability for services provided pursuant to and covered by a health care plan shall have a priority of distribution of the general assets immediately following that of enrolled participants and enrolled participants' beneficiaries as described herein, and immediately preceding the priority of distribution described in RCW 48.31.280(2)(e).

NEW SECTION. Sec. 5. A new section is added to chapter 48.46 RCW to read as follows:

(1) Except as provided in subsection (2) of this section, every health maintenance organization must maintain a minimum net worth equal to the greater of:

(a) One million dollars; or

(b) Two percent of annual premium revenues as reported on the most recent annual financial statement filed with the commissioner on the first

one hundred fifty million dollars of premium and one percent of annual premium on the premium in excess of one hundred fifty million dollars; or

(c) An amount equal to the sum of three months' uncovered expenditures as reported on the most recent financial statement filed with the commissioner.

(2) A health maintenance organization registered before the effective date of this act, must maintain a minimum net worth of:

(a) Twenty-five percent of the amount required by subsection (1) of this section by December 31, 1990;

(b) Fifty percent of the amount required by subsection (1) of this section by December 31, 1991;

(c) Seventy-five percent of the amount required by subsection (1) of this section by December 31, 1992; and

(d) One hundred percent of the amount required by subsection (1) of this section by December 31, 1993.

(3)(a) In determining net worth, no debt shall be considered fully subordinated unless the subordination clause is in a form acceptable to the commissioner. An interest obligation relating to the repayment of a subordinated debt must be similarly subordinated.

(b) The interest expenses relating to the repayment of a fully subordinated debt shall not be considered uncovered expenditures.

(c) A subordinated debt incurred by a note meeting the requirement of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.

(4) Every health maintenance organization shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures that have been incurred, whether reported or unreported, which are unpaid and for which such organization is or may be liable, and to provide for the expense of adjustment or settlement of such claims.

Such liabilities shall be computed in accordance with rules promulgated by the commissioner upon reasonable consideration of the ascertained experience and character of the health maintenance organization.

Sec. 6. Section 3, chapter 151, Laws of 1982 as amended by section 4, chapter 320, Laws of 1985 and RCW 48.46.240 are each amended to read as follows:

(1) Each health maintenance organization obtaining a certificate of ~~((authority))~~ registration from the commissioner shall provide and maintain a funded reserve of one hundred fifty thousand dollars ~~((, which shall be in addition to any deposit or contingent reserve requirements set forth in RCW 48.46.230))~~. The funded reserve shall be deposited with the commissioner or with any organization/trustee acceptable to him in the form of cash, securities eligible for investment by the health maintenance organization pursuant to chapter 48.13 RCW, approved surety bond or any combination of

these ((or other measures that are acceptable to the commissioner)), and must equal or exceed one hundred fifty thousand dollars. The funded reserve shall be established as ((a guarantee)) an assurance that the uncovered expenditure obligations of the health maintenance organization to the enrolled participants will be performed.

(2) ~~((Any health maintenance organization that is in operation on January 1, 1983, shall establish a funded reserve of one hundred thousand dollars within one year and accrue twenty-five thousand dollars on the first day of the second and third fiscal years following twelve months after January 1, 1983))~~ All income from reserves on deposit with the commissioner shall belong to the depositing health maintenance organization and shall be paid to it as it becomes available.

(3) Any funded reserve required by this section shall be considered an asset of the health maintenance organization in determining the organization's net worth.

(4) A health maintenance organization that has made a securities deposit with the commissioner may, at its option, withdraw the securities deposit or any part of the deposit after first having deposited or provided in lieu thereof an approved surety bond, a deposit of cash or securities, or any combination of these or other deposits of equal amount and value to that withdrawn. Any securities and surety bond shall be subject to approval by the commissioner before being substituted.

NEW SECTION. Sec. 7. A new section is added to chapter 48.46 RCW to read as follows:

(1) Subject to subsection (2) of this section, every contract between a health maintenance organization and its participating providers of health care services shall be in writing and shall set forth that in the event the health maintenance organization fails to pay for health care services as set forth in the agreement, the enrolled participant shall not be liable to the provider for any sums owed by the health maintenance organization. Every such contract shall provide that this requirement shall survive termination of the contract.

(2) The provisions of subsection (1) of this section shall not apply to emergency care from a provider who is not a participating provider, to out-of-area services or, in exceptional situations approved in advance by the commissioner, if the health maintenance organization is unable to negotiate reasonable and cost-effective participating provider contracts.

(3)(a) Each participating provider contract form shall be filed with the commissioner fifteen days before it is used.

(b) Any contract form not affirmatively disapproved within fifteen days of filing shall be deemed approved, except that the commissioner may extend the approval period an additional fifteen days upon giving notice before

the expiration of the initial fifteen-day period. The commissioner may approve such a contract form for immediate use at any time. Approval may be subsequently withdrawn for cause.

(c) Subject to the right of the health maintenance organization to demand and receive a hearing under chapters 48.04 and 34.05 RCW, the commissioner may disapprove such a contract form if it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.05 RCW.

(4) No participating provider, or agent, trustee, or assignee thereof, may maintain an action against an enrolled participant to collect sums owed by the health maintenance organization.

NEW SECTION. Sec. 8. A new section is added to chapter 48.46 RCW to read as follows:

Each health maintenance organization shall have a plan for handling insolvency which allows for continuation of benefits for the duration of the agreement period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits. The commissioner shall approve such a plan if it includes:

(1) Insurance to cover the expenses to be paid for continued benefits after insolvency;

(2) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health maintenance organization's insolvency for which premium payment has been made and until the enrolled participants' discharge from inpatient facilities;

(3) Use of insolvency reserves established under RCW 48.46.240;

(4) Acceptable letters of credit or approved surety bonds; or

(5) Any other arrangements the commissioner and the organization mutually agree are appropriate to assure that benefits are continued.

NEW SECTION. Sec. 9. A new section is added to chapter 48.46 RCW to read as follows:

(1)(a) In the event of insolvency of a health care service contractor or health maintenance organization and upon order of the commissioner, all other carriers then having active enrolled participants under a group plan with the affected agreement holder that participated in the enrollment process with the insolvent health care service contractor or health maintenance organization at a group's last regular enrollment period shall offer the eligible enrolled participants of the insolvent health services contractor or health maintenance organization the opportunity to enroll in an existing group plan without medical underwriting during a thirty-day open enrollment period, commencing on the date of the insolvency. Eligible enrolled participants shall not be subject to preexisting condition limitations except to the extent that a waiting period for a preexisting condition has not been satisfied under the insolvent carrier's group plan. An open enrollment shall not be required

where the agreement holder participates in a self-insured, self-funded, or other health plan exempt from commissioner rule, unless the plan administrator and agreement holder voluntarily agree to offer a simultaneous open enrollment and extend coverage under the same enrollment terms and conditions as are applicable to carriers under this title and rules adopted under this title. If an exempt plan was offered during the last regular open enrollment period, then the carrier may offer the agreement holder the same coverage as any self-insured plan or plans offered by the agreement holder without regard to coverage, benefit, or provider requirements mandated by this title for the duration of the current agreement period.

(b) For purposes of this subsection only, the term "carrier" means a health maintenance organization or a health care service contractor. In the event of insolvency of a carrier and if no other carrier has active enrolled participants under a group plan with the affected agreement holder, or if the commissioner determines that the other carriers lack sufficient health care delivery resources to assure that health services will be available or accessible to all of the group enrollees of the insolvent carrier, then the commissioner shall allocate equitably the insolvent carrier's group agreements for these groups among all carriers that operate within a portion of the insolvent carrier's area, taking into consideration the health care delivery resources of each carrier. Each carrier to which a group or groups are allocated shall offer the agreement holder, without medical underwriting, the carrier's existing coverage that is most similar to each group's coverage with the insolvent carrier at rates determined in accordance with the successor carrier's existing rating methodology. The eligible enrolled participants shall not be subject to preexisting condition limitations except to the extent that a waiting period for a preexisting condition has not been satisfied under the insolvent carrier's group plan. No offering by a carrier shall be required where the agreement holder participates in a self-insured, self-funded, or other health plan exempt from commissioner rule. The carrier may offer the agreement holder the same coverage as any self-insured plan or plans offered by the agreement holder without regard to coverage, benefit, or provider requirements mandated by this title for the duration of the current agreement period.

(2) The commissioner shall also allocate equitably the insolvent carrier's nongroup enrolled participants who are unable to obtain coverage among all carriers that operate within a portion of the insolvent carrier's service area, taking into consideration the health care delivery resources of the carrier. Each carrier to which nongroup enrolled participants are allocated shall offer the nongroup enrolled participants the carrier's existing comprehensive conversion plan, without additional medical underwriting, at rates determined in accordance with the successor carrier's existing rating methodology. The eligible enrolled participants shall not be subject to preexisting condition limitations except to the extent that a waiting period for a

preexisting condition has not been satisfied under the insolvent carrier's plan.

(3) Any agreements covering participants allocated pursuant to subsections (1)(b) and (2) of this section to carriers pursuant to this section may be rerated after ninety days of coverage.

(4) A limited health care service contractor shall not be required to offer services other than its one limited health care service to any enrolled participant of an insolvent carrier.

Sec. 10. Section 20, chapter 106, Laws of 1983 and RCW 48.46.420 are each amended to read as follows:

(1) Any health maintenance organization which, or person who, violates any provision of this chapter shall be guilty of a gross misdemeanor.

(2) A health maintenance organization that fails to comply with the net worth requirements of this chapter must cure that defect in compliance with an order of the commissioner rendered in conformity with rules adopted pursuant to chapter 34.05 RCW. The commissioner is authorized to take appropriate action to assure that the continued operation of the health maintenance organization will not be hazardous to its enrolled participants.

Sec. 11. Section 3, chapter 243, Laws of 1986 and RCW 48.80.030 are each amended to read as follows:

(1) A person shall not make or present or cause to be made or presented to a health care payer a claim for a health care payment knowing the claim to be false.

(2) No person shall knowingly present to a health care payer a claim for a health care payment that falsely represents that the goods or services were medically necessary in accordance with professionally accepted standards. Each claim that violates this subsection shall constitute a separate offense.

(3) No person shall knowingly make a false statement or false representation of a material fact to a health care payer for use in determining rights to a health care payment. Each claim that violates this subsection shall constitute a separate violation.

(4) No person shall conceal the occurrence of any event affecting his or her initial or continued right under a contract, certificate, or policy of insurance to have a payment made by a health care payer for a specified health care service. A person shall not conceal or fail to disclose any information with intent to obtain a health care payment to which the person or any other person is not entitled, or to obtain a health care payment in an amount greater than that which the person or any other person is entitled.

(5) No provider shall willfully collect or attempt to collect an amount from an insured knowing that to be in violation of an agreement or contract with a health care payor to which the provider is a party.

(6) A person who violates this section is guilty of a class C felony punishable under chapter 9A.20 RCW.

~~((6))~~ (7) This section does not apply to statements made on an application for coverage under a contract or certificate of health care coverage issued by an insurer, health care service contractor, health maintenance organization, or other legal entity which is self-insured and providing health care benefits to its employees.

NEW SECTION. Sec. 12. Section 2, chapter 151, Laws of 1982 and RCW 48.46.230 are each repealed.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 120

[Substitute House Bill No. 3002]

HEALTH CARE SERVICE CONTRACTORS—SOLVENCY PROTECTION

AN ACT Relating to solvency protection for health care service contractors; amending RCW 48.44.010, 48.44.020, 48.44.026, 48.44.070, 48.44.080, and 48.80.030; and adding new sections to chapter 48.44 RCW.

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

Sec. 1. Section 1, chapter 223, Laws of 1986 and RCW 48.44.010 are each amended to read as follows:

For the purposes of this chapter:

(1) "Health care services" means and includes medical, surgical, dental, chiropractic, hospital, optometric, podiatric, pharmaceutical, ambulance, custodial, mental health, and other therapeutic services.

(2) "Provider" means any ~~((person lawfully licensed or authorized by the state of Washington to render any health care))~~ health professional, hospital, or other institution, organization, or person that furnishes health care services and is licensed to furnish such services.

(3) "Health care service contractor" means any corporation, cooperative group, or association, which is sponsored by or otherwise intimately connected with a provider or group of providers, who or which not otherwise being engaged in the insurance business, accepts prepayment for health care services from or for the benefit of persons or groups of persons as consideration for providing such persons with any health care services.

(4) "~~((Participant))~~ Participating provider" means a provider, who or which has contracted in writing with a health care service contractor to accept payment from and to look solely to such contractor according to the terms of the subscriber contract for any health care services rendered to a person who has previously paid, or on whose behalf prepayment has been made, to such contractor for such services.

(5) "Enrolled participant" means a person or group of persons who have entered into a contractual arrangement or on whose behalf a contractual arrangement has been entered into with a health care service contractor to receive health care services.

(6) "Commissioner" means the insurance commissioner.

(7) "Uncovered expenditures" means the costs to the health care service contractor for health care services that are the obligation of the health care service contractor for which an enrolled participant would also be liable in the event of the health care service contractor's insolvency and for which no alternative arrangements have been made as provided herein. The term does not include expenditures for covered services when a provider has agreed not to bill the enrolled participant even though the provider is not paid by the health care service contractor, or for services that are guaranteed, insured or assumed by a person or organization other than the health care service contractor.

(8) "Copayment" means an amount specified in a group or individual contract which is an obligation of an enrolled participant for a specific service which is not fully prepaid.

(9) "Deductible" means the amount an enrolled participant is responsible to pay before the health care service contractor begins to pay the costs associated with treatment.

(10) "Group contract" means a contract for health care services which by its terms limits eligibility to members of a specific group. The group contract may include coverage for dependents.

(11) "Individual contract" means a contract for health care services issued to and covering an individual. An individual contract may include dependents.

(12) "Carrier" means a health maintenance organization, an insurer, a health care service contractor, or other entity responsible for the payment of benefits or provision of services under a group or individual contract.

(13) "Replacement coverage" means the benefits provided by a succeeding carrier.

(14) "Insolvent" or "insolvency" means that the organization has been declared insolvent and is placed under an order of liquidation by a court of competent jurisdiction.

(15) "Fully subordinated debt" means those debts that meet the requirements of section 4(3) of this act and are recorded as equity.

(16) "Net worth" means the excess of total admitted assets as defined in RCW 48.12.010 over total liabilities but the liabilities shall not include fully subordinated debt.

NEW SECTION. Sec. 2. A new section is added to chapter 48.44 RCW to read as follows:

(1) Any rehabilitation, liquidation, or conservation of a health care service contractor shall be deemed to be the rehabilitation, liquidation, or

conservation of an insurance company and shall be conducted under the supervision of the commissioner pursuant to the law governing the rehabilitation, liquidation, or conservation of insurance companies. The commissioner may apply for an order directing the commissioner to rehabilitate, liquidate, or conserve a health care service contractor upon any one or more grounds set out in RCW 48.31.030, 48.31.050, and 48.31.080.

(2) For purpose of determining the priority of distribution of general assets, claims of enrolled participants and enrolled participants' beneficiaries shall have the same priority as established by RCW 48.31.280 for policyholders and beneficiaries of insureds of insurance companies. If an enrolled participant is liable to any provider for services provided pursuant to and covered by the health care plan, that liability shall have the status of an enrolled participant claim for distribution of general assets.

(3) Any provider who is obligated by statute or agreement to hold enrolled participants harmless from liability for services provided pursuant to and covered by a health care plan shall have a priority of distribution of the general assets immediately following that of enrolled participants and enrolled participants' beneficiaries as described herein, and immediately preceding the priority of distribution described in chapter 48.31 RCW.

NEW SECTION. Sec. 3. A new section is added to chapter 48.44 RCW to read as follows:

(1) For purposes of this section only, "limited health care service" means dental care services, vision care services, mental health services, chemical dependency services, pharmaceutical services, podiatric care services, and such other services as may be determined by the commissioner to be limited health services, but does not include hospital, medical, surgical, emergency, or out-of-area services except as those services are provided incidentally to the limited health services set forth in this subsection.

(2) For purposes of this section only, a "limited health care service contractor" means a health care service contractor that offers one and only one limited health care service.

(3) For all limited health care service contractors that have had a certificate of registration for less than three years, their uncovered expenditures shall be either insured or guaranteed by a foreign or domestic carrier admitted in the state of Washington or by another carrier acceptable to the commissioner. All such contractors shall also deposit with the commissioner one-half of one percent of their projected premium for the next year in cash, approved surety bond, securities, or other form acceptable to the commissioner.

(4) For all limited health care service contractors that have had a certificate of registration for three years or more, their uncovered expenditures shall be assured by depositing with the insurance commissioner twenty-five percent of their last year's uncovered expenditures as reported to the commissioner and adjusted to reflect any anticipated increases or decreases

during the ensuing year plus an amount for unearned prepayments; in cash, approved surety bond, securities, or other form acceptable to the commissioner. Compliance with subsection (3) of this section shall also constitute compliance with this requirement.

(5) Limited health service contractors need not comply with section 4 or 7 of this act.

NEW SECTION. Sec. 4. A new section is added to chapter 48.44 RCW to read as follows:

(1)(a) Except as provided in subsection (2) of this section, every health care service contractor must have a net worth of one million five hundred thousand dollars at the time of initial registration under this chapter and a net worth of one million dollars thereafter. The commissioner is authorized to establish standards for reviewing a health care service contractor's financial integrity when, for any reason, its net worth is reduced below one million dollars. When satisfied that such a health care service contractor is financially stable and not hazardous to its enrolled participants, the commissioner may waive compliance with the one million dollar net worth standard otherwise required by this subsection. When such a health care service contractor's net worth falls below five hundred thousand dollars, the commissioner shall require that net worth be increased to one million dollars.

(b) A health care service contractor who fails to maintain the required net worth must cure that defect in compliance with an order of the commissioner rendered in conformity with rules adopted under chapter 34.05 RCW. The commissioner may take appropriate action to assure that the continued operation of the health care service contractor will not be hazardous to its enrolled participants.

(2) A health care service contractor registered before the effective date of this act must maintain a net worth of:

(a) Twenty-five percent of the amount required by subsection (1) of this section by December 31, 1990;

(b) Fifty percent of the amount required by subsection (1) of this section by December 31, 1991;

(c) Seventy-five percent of the amount required by subsection (1) of this section by December 31, 1992; and

(d) One hundred percent of the amount required by subsection (1) of this section by December 31, 1993.

(3)(a) In determining net worth, no debt shall be considered fully subordinated unless the subordination is in a form acceptable to the commissioner. An interest obligation relating to the repayment of a subordinated debt must be similarly subordinated.

(b) The interest expenses relating to the repayment of a fully subordinated debt shall not be considered uncovered expenditures.

(c) A subordinated debt incurred by a note meeting the requirement of this section, and otherwise acceptable to the commissioner, shall not be considered a liability and shall be recorded as equity.

(4) Every health care service contractor shall, when determining liabilities, include an amount estimated in the aggregate to provide for any unearned premium and for the payment of all claims for health care expenditures which have been incurred, whether reported or unreported, which are unpaid and for which the organization is or may be liable, and to provide for the expense of adjustment or settlement of the claims.

Liabilities shall be computed in accordance with regulations adopted by the commissioner upon reasonable consideration of the ascertained experience and character of the health care service contractor.

(5) All income from reserves on deposit with the commissioner shall belong to the depositing health care service contractor and shall be paid to it as it becomes available.

(6) Any funded reserve required by this chapter shall be considered an asset of the health care service contractor in determining the organization's net worth.

(7) A health care service contractor that has made a securities deposit with the commissioner may, at its option, withdraw the securities deposit or any part thereof after first having deposited or provided in lieu thereof an approved surety bond, a deposit of cash or securities, or any combination of these or other deposits of equal amount and value to that withdrawn. Any securities and surety bond shall be subject to approval by the commissioner before being substituted.

Sec. 5. Section 2, chapter 268, Laws of 1947 as last amended by section 2, chapter 223, Laws of 1986 and RCW 48.44.020 are each amended to read as follows:

(1) Any health care service contractor may enter into ~~((agreements))~~ contracts with or for the benefit of persons or groups of persons which require prepayment for health care services by or for such persons in consideration of such health care service contractor providing one or more health care services to such persons and such activity shall not be subject to the laws relating to insurance if the health care services are rendered by the health care service contractor or by a ~~((participant))~~ participating provider.

(2) The commissioner may on examination, subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.05 RCW, disapprove any contract form for any of the following grounds:

(a) If it contains or incorporates by reference any inconsistent, ambiguous or misleading clauses, or exceptions and conditions which unreasonably or deceptively affect the risk purported to be assumed in the general coverage of the contract; or

(b) If it has any title, heading or other indication of its provisions which is misleading; or

(c) If purchase of health care services thereunder is being solicited by deceptive advertising; or

(d) If, the benefits provided therein are unreasonable in relation to the amount charged for the contract;

(e) If it contains unreasonable restrictions on the treatment of patients;

(f) If it violates any provision of this chapter;

(g) If it fails to conform to minimum provisions or standards required by regulation made by the commissioner pursuant to chapter 34.05 RCW;

(h) If any contract for health care services with any state agency, division, subdivision, board or commission or with any political subdivision, municipal corporation, or quasi-municipal corporation fails to comply with state law.

(3)(a) Every contract between a health care service contractor and a participating provider of health care services shall be in writing and shall state that in the event the health care service contractor fails to pay for health care services as provided in the contract, the enrolled participant shall not be liable to the provider for sums owed by the health care service contractor. Every such contract shall provide that this requirement shall survive termination of the contract.

(b) No participating provider, agent, trustee or assignee may maintain any action against an enrolled participant to collect sums owed by the health care service contractor.

Sec. 6. Section 1, chapter 168, Laws of 1982 as last amended by section 1, chapter 122, Laws of 1989 and RCW 48.44.026 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, where the provider is not a ((participant)) participating provider under a contract with the health care service contractor, shall be made out to both the provider and the ((insured)) 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 ((insured)) enrolled participant if the ((insured)) 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. 7. Section 3, chapter 268, Laws of 1947 as last amended by section 3, chapter 223, Laws of 1986 and RCW 48.44.030 are each amended to read as follows:

If any of the health care services which are promised in any such agreement are not to be performed by the health care service contractor, or by a ((participant)) participating provider, such activity shall not be subject to the laws relating to insurance, provided provision is made for reimbursement or indemnity of the persons who have previously paid, or on whose behalf prepayment has been made, for such services. Such reimbursement or indemnity shall either be underwritten by an insurance company authorized to write accident, health and disability insurance in the state or guaranteed by a surety company authorized to do business in this state, or guaranteed by a deposit of cash or securities eligible for investment by insurers pursuant to chapter 48.13 RCW, with the insurance commissioner, as hereinafter provided. If the reimbursement or indemnity is underwritten by an insurance company, the contract or policy of insurance may designate the health care service contractor as the named insured, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for such health care services. If the reimbursement or indemnity is guaranteed by a surety company, the surety bond shall designate the state of Washington as the named obligee, but shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for such health care services, and shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. A copy of such insurance policy or surety bond, as the case may be, and any modification thereof, shall be filed with the insurance commissioner. If the reimbursement or indemnity is guaranteed by a deposit of cash or securities, such deposit shall be in such amount as the insurance commissioner shall direct, but in no event in a sum greater than the amount of one hundred fifty thousand dollars or the amount necessary to cover incurred but unpaid reimbursement or indemnity benefits as reported in the last annual statement filed with the insurance commissioner, and adjusted to reflect known or anticipated increases or decreases during the ensuing year, plus an amount of unearned prepayments applicable to reimbursement or indemnity benefits satisfactory to the insurance commissioner, whichever amount is greater. Such cash or security deposit shall be held in trust by the insurance commissioner and shall be for the benefit of the persons who have previously paid, or on whose behalf prepayment has been made, for such health care services.

NEW SECTION. Sec. 8. A new section is added to chapter 48.44 RCW to read as follows:

(1)(a) In the event of insolvency of a health services contractor or health maintenance organization and upon order of the commissioner, all other carriers then having active enrolled participants under a group plan with the affected agreement holder that participated in the enrollment process with the insolvent health services contractor or health maintenance organization at a group's last regular enrollment period shall offer the eligible enrolled participants of the insolvent health services contractor or health maintenance organization the opportunity to enroll in an existing group plan without medical underwriting during a thirty-day open enrollment period, commencing on the date of the insolvency. Eligible enrolled participants shall not be subject to preexisting condition limitations except to the extent that a waiting period for a preexisting condition has not been satisfied under the insolvent carrier's group plan. An open enrollment shall not be required where the agreement holder participates in a self-insured, self-funded, or other health plan exempt from commissioner rule, unless the plan administrator and agreement holder voluntarily agree to offer a simultaneous open enrollment and extend coverage under the same enrollment terms and conditions as are applicable to carriers under this title and rules adopted under this title. If an exempt plan was offered during the last regular open enrollment period, then the carrier may offer the agreement holder the same coverage as any self-insured plan or plans offered by the agreement holder without regard to coverage, benefit, or provider requirements mandated by this title for the duration of the current agreement period.

(b) For purposes of this subsection only, the term "carrier" means a health maintenance organization or a health care services contractor. In the event of insolvency of a carrier and if no other carrier has active enrolled participants under a group plan with the affected agreement holder, or if the commissioner determines that the other carriers lack sufficient health care delivery resources to assure that health services will be available or accessible to all of the group enrollees of the insolvent carrier, then the commissioner shall allocate equitably the insolvent carrier's group agreements for these groups among all carriers that operate within a portion of the insolvent carrier's area, taking into consideration the health care delivery resources of each carrier. Each carrier to which a group or groups are allocated shall offer the agreement holder, without medical underwriting, the carrier's existing coverage that is most similar to each group's coverage with the insolvent carrier at rates determined in accordance with the successor carrier's existing rating methodology. The eligible enrolled participants shall not be subject to preexisting condition limitations except to the extent that a waiting period for a preexisting condition has not been satisfied under the insolvent carrier's group plan. No offering by a carrier shall be required where the agreement holder participates in a self-insured, self-funded, or other health plan exempt from commissioner rule. The carrier may offer the agreement holder the same coverage as any self-insured plan

or plans offered by the agreement holder without regard to coverage, benefit, or provider requirements mandated by this title for the duration of the current agreement period.

(2) The commissioner shall also allocate equitably the insolvent carrier's nongroup enrolled participants who are unable to obtain coverage among all carriers that operate within a portion of the insolvent carrier's service area, taking into consideration the health care delivery resources of the carrier. Each carrier to which nongroup enrolled participants are allocated shall offer the nongroup enrolled participants the carrier's existing comprehensive conversion plan, without additional medical underwriting, at rates determined in accordance with the successor carrier's existing rating methodology. The eligible enrolled participants shall not be subject to pre-existing condition limitations except to the extent that a waiting period for a preexisting condition has not been satisfied under the insolvent carrier's plan.

(3) Any agreements covering participants allocated pursuant to subsections (1)(b) and (2) of this section to carriers pursuant to this section may be rerated after ninety days of coverage.

(4) A limited health care service contractor shall not be required to offer services other than its one limited health care service to any enrolled participant of an insolvent carrier.

Sec. 9. Section 4, chapter 197, Laws of 1961 as amended by section 2, chapter 87, Laws of 1965 and RCW 48.44.070 are each amended to read as follows:

(1) Forms of contracts between health care service contractors and ~~((participants))~~ participating providers shall be filed with the insurance commissioner prior to use.

(2) Any contract form not affirmatively disapproved within fifteen days of filing shall be deemed approved, except that the commissioner may extend the approval period an additional fifteen days upon giving notice before the expiration of the initial fifteen-day period. The commissioner may approve such a contract form for immediate use at any time. Approval may be subsequently withdrawn for cause.

(3) Subject to the right of the health care service contractor to demand and receive a hearing under chapters 48.04 and 34.05 RCW, the commissioner may disapprove such a contract form if it is in any respect in violation of this chapter or if it fails to conform to minimum provisions or standards required by the commissioner by rule under chapter 34.05 RCW.

Sec. 10. Section 5, chapter 197, Laws of 1961 as last amended by section 4, chapter 223, Laws of 1986 and RCW 48.44.080 are each amended to read as follows:

Every health care service contractor shall file with its annual statement with the insurance commissioner a master list of the ~~((participants))~~ participating providers with whom or with which such health care service contractor has executed contracts of participation, certifying that each such ~~((participant))~~ participating provider has executed such contract of participation. The health care service contractor shall on the first day of each month notify the insurance commissioner in writing in case of the termination of any such contract, and of any ~~((participant))~~ participating provider who has entered into a participating contract during the preceding month.

NEW SECTION. Sec. 11. A new section is added to chapter 48.44 RCW to read as follows:

Each health care service contractor shall have a plan for handling insolvency that allows for continuation of benefits for the duration of the contract period for which premiums have been paid and continuation of benefits to members who are confined on the date of insolvency in an inpatient facility until their discharge or expiration of benefits. The commissioner shall approve such a plan if it includes:

(1) Insurance to cover the expenses to be paid for continued benefits after insolvency;

(2) Provisions in provider contracts that obligate the provider to provide services for the duration of the period after the health care service contractor's insolvency for which premium payment has been made and until the enrolled participants are discharged from inpatient facilities;

(3) Use of insolvency reserves established under RCW 48.44.030;

(4) Acceptable letters of credit or approved surety bonds; or

(5) Any other arrangements the commissioner and the organization mutually agree are appropriate to assure that the benefits are continued.

Passed the House March 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 121

[Senate Bill No. 6388]

INSURERS AND AGENTS—CANCELLATION OF CONTRACTS BETWEEN

AN ACT Relating to cancellation of contracts between insurers and agents; adding a new section to chapter 48.17 RCW; and repealing RCW 48.17.590.

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

NEW SECTION. Sec. 1. A new section is added to chapter 48.17 RCW to read as follows:

(1) No insurer authorized to do business in this state may cancel or refuse to renew any policy because that insurer's contract with the independent agent through whom such policy is written has been terminated by the insurer, the agent, or by mutual agreement.

(2) If an insurer intends to terminate a written agency contract with an independent agent, the insurer shall give the agent not less than one hundred twenty days' advance written notice of the intent, unless the termination is based upon the agent's abandonment of the agency, the agent's gross and willful misconduct, the agent's loss of license by order of the insurance commissioner, the agent's sale of, or material change of ownership in, the agency, the agent's fraud or material misrepresentation relative to the business of insurance, or the agent's default in payments due the insurer under the terms of the agreement. During the notice period the insurer shall not amend the existing contract without the consent of the agent.

(a) Unless the agency contract provides otherwise, during the one hundred twenty day notice period the independent agent shall not write or bind any new business on behalf of the terminating insurer without specific written approval. However, routine adjustments by insureds are permitted. The terminating insurer shall permit renewal of all its policies in the agent's book of business for a period of one year following the effective date of the termination, to the extent the policies meet the insurer's underwriting standards and the insurer has no other reason for nonrenewal. The rate of commission for any policies renewed under this provision shall be the same as the agent would have received had the agency agreement not been terminated.

(b) An independent agent whose agency contract has been terminated shall have a reasonable opportunity to transfer affected policies to other insurers with which the agent has an appointment: PROVIDED, HOWEVER, That prior to the conclusion of the one-year renewal period following the effective date of the termination, an insurer without a reason for not renewing an insured's policy and which has not received notification of the placement of such policy with another insurer shall provide its insured with appropriate written notice of an offer to continue the policy. In such cases, except where the terminated agent has placed the policy with another agent of the insurer, the insurer shall, where practical, assign the policy to an appointed agent located reasonably near the insured willing to accept the assignment.

(c) An insurer is not required to continue the appointment of a terminated independent agent during or after the one year renewal period. However, an agent whose contract has been terminated by the insurer remains an agent of the terminating insurer as to actions associated with the policies subject to this section just as if he or she were appointed by the insurer as its agent.

(3) In the absence of receipt of notice from the insured that coverage will not be continued with the existing insurer, an insurer whose agency contract has been terminated by an independent agent, or by the mutual agreement of the insurer and the agent, that elects to renew or lacks a reason not to renew, shall give the renewal notice required by chapter 48.18 RCW to affected insureds, and continue renewed coverage in accordance with the methods specified in subsection (2)(b) of this section. Agents affected by this subsection may provide the notice to an insurer that an insured does not intend to continue existing coverage with the insurer, after receiving written authority to do so from an insured.

(4) For purposes of this section an "independent agent" is a licensed insurance agent representing an insurer on an independent contractor basis and not as an employee. This term includes only those agents not obligated by contract to place insurance accounts with a particular insurer or group of insurers.

(5) This section does not apply to (a) agents or policies of an insurer or group of insurers if the business is not owned by the agent and the termination of any such contractual agreement does not result in the cancellation or nonrenewal of any policies of insurance; (b) general agents, to the extent that they are acting in that capacity; (c) life, disability, surety, ocean marine and foreign trade, and title insurance policies; (d) situations where the termination of the agency contract results from the insolvency or liquidation of the terminating insurer.

(6) No insurer may terminate its agency contract with an appointed agent unless it complies with this section.

(7) Nothing contained in this section excuses an insurer from giving cancellation and renewal notices that may be required by chapter 48.18 RCW.

NEW SECTION. Sec. 2. Section 1, chapter 286, Laws of 1986 and RCW 48.17.590 are each repealed.

Passed the Senate February 13, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 122

[Substitute Senate Bill No. 6868]

GUARDIANSHIP

AN ACT Relating to guardianship; amending RCW 11.88.005, 11.88.010, 11.88.020, 11.88.030, 11.88.040, 11.88.045, 11.88.080, 11.88.090, 11.88.100, 11.88.105, 11.88.107, 11.88.120, 11.88.125, 11.88.130, 11.88.140, 11.88.150, 11.92.035, 11.92.040, 11.92.050, 11.92.053, 11.92.056, 11.92.060, 11.92.090, 11.92.100, 11.92.110, 11.92.115, 11.92.130, 11.92.140, 11.92.150, 11.92.160, 11.92.170, 11.92.180, and 11.92.185; adding new sections to chapter 11.88 RCW; adding new sections to chapter 11.92 RCW; and providing an effective date.

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

Sec. 1. Section 1, chapter 95, Laws of 1975 1st ex. sess. as amended by section 1, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.005 are each amended to read as follows:

It is the intent ~~((and purpose))~~ of the legislature to ~~((recognize that disabled persons have special and unique abilities and competencies with varying degrees of disability))~~ protect the liberty and autonomy of all people of this state, and to enable them to exercise their rights under the law to the maximum extent, consistent with the capacity of each person. The legislature recognizes that people with incapacities have unique abilities and needs, and that some people with incapacities cannot exercise their rights or provide for their basic needs without the help of a guardian. However, their liberty and autonomy should be restricted through the guardianship process only to the minimum extent necessary to adequately provide for their own health or safety, or to adequately manage their financial affairs.

~~((Such persons must be legally protected without the necessity for determination of total incompetency and without the attendant deprivation of civil and legal rights that such a determination requires.))~~

Sec. 2. Section 11.88.010, chapter 145, Laws of 1965 as last amended by section 176, chapter 149, Laws of 1984 and RCW 11.88.010 are each amended to read as follows:

(1) The superior court of each county shall have power to appoint guardians for the persons and/or estates ~~((, or either thereof.))~~ of ~~((incompetent))~~ incapacitated persons, and guardians for the estates of ~~((all such persons who are))~~ nonresidents of the state ~~((but))~~ who have property in ~~((such))~~ the county needing care and attention.

~~((An "incompetent" is any person who is either:~~

~~(a) Under the age of majority, as defined in RCW 11.92.010, or~~

~~(b) Incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapity, of either managing his property or caring for himself or both.))~~

(a) For purposes of this chapter, a person may be deemed incapacitated as to person when the superior court determines the individual has a significant risk of personal harm based upon a demonstrated inability to adequately provide for nutrition, health, housing, or physical safety.

(b) For purposes of this chapter, a person may be deemed incapacitated as to the person's estate when the superior court determines the individual is at significant risk of financial harm based upon a demonstrated inability to adequately manage property or financial affairs.

(c) A determination of incapacity is a legal not a medical decision, based upon a demonstration of management insufficiencies over time in the area of person or estate. Age, eccentricity, poverty, or medical diagnosis alone shall not be sufficient to justify a finding of incapacity.

(d) A person may also be determined incapacitated if he or she is under the age of majority as defined in RCW 26.28.010.

(e) For purposes of giving informed consent for health care pursuant to RCW 7.70.050 and 7.70.065, an "incompetent" person is any person who is (i) incompetent by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, of either managing his or her property or caring for himself or herself, or both, or (ii) incapacitated as defined in (a), (b), or (d) of this subsection.

(f) For purposes of the terms "incompetent," "disabled," or "not legally competent," as those terms are used in the Revised Code of Washington to apply to persons incapacitated under this chapter, those terms shall be interpreted to mean "incapacitated" persons for purposes of this chapter.

(2) The superior court for each county shall have power to appoint limited guardians for the persons and estates, or either thereof, of ~~((disabled))~~ incapacitated persons, who by reason of their ~~((disability))~~ incapacity have need for protection and assistance, but who ~~((cannot be found to be fully incompetent, upon investigation as provided by RCW 11.88.090 as now or hereafter amended))~~ are capable of managing some of their personal and financial affairs. After considering all evidence presented as a result of such investigation, the court shall impose, by order, only such specific limitations and ~~((disabilities))~~ restrictions on ~~((a disabled))~~ an incapacitated person to be placed under a limited guardianship as the court finds necessary for such person's protection and assistance. A person shall not be presumed to be ~~((incompetent))~~ incapacitated nor shall a person lose any legal rights or suffer any legal disabilities as the result of being placed under a limited guardianship, except as to those rights and disabilities specifically set forth in the court order establishing such a limited guardianship. In addition, the court order shall state the period of time for which it shall be applicable.

~~((For the purposes of chapters 11.88 and 11.92 RCW the term "disabled person" means an individual who is in need of protection and assistance by reason of mental illness, developmental disability, senility, habitual drunkenness, excessive use of drugs, or other mental incapacity, but cannot be found to be fully incompetent.))~~

(3) Venue for petitions for guardianship or limited guardianship shall lie in the county wherein the alleged ~~((incompetent or disabled))~~ incapacitated person is domiciled, or if such person ~~((is a resident of a state institution for developmentally disabled persons))~~ resides in a facility supported in whole or in part by local, state, or federal funding sources, in either the county where ~~((in such institution))~~ the facility is located, the county of domicile prior to residence in the supported facility, or the county ~~((wherein))~~ where a parent or spouse of the alleged ((incompetent or disabled)) incapacitated person is domiciled.

If the alleged incapacitated person's residency has changed within one year of the filing of the petition, any interested person may move for a change of venue for any proceedings seeking the appointment of a guardian or a limited guardian under this chapter to the county of the alleged incapacitated person's last place of residence of one year or more. The motion shall be granted when it appears to the court that such venue would be in the best interests of the alleged incapacitated person and would promote more complete consideration of all relevant matters.

(4) Under RCW 11.94.010, a principal may nominate, by a durable power of attorney, the guardian or limited guardian of his or her estate or person for consideration by the court if (~~(protective)~~) guardianship proceedings for the principal's person or estate are thereafter commenced. The court shall make its appointment in accordance with the principal's most recent nomination in a durable power of attorney except for good cause or disqualification.

(5) When a court imposes a full guardianship for an incapacitated person, the person shall be considered incompetent for purposes of rationally exercising the right to vote and shall lose the right to vote, unless the court specifically finds that the person is rationally capable of exercising the franchise. Imposition of a limited guardianship for an incapacitated person may result in the loss of the right to vote when in the courts discretion, the court determines that the person is incompetent for purposes of rationally exercising the franchise.

Sec. 3. Section 11.88.020, chapter 145, Laws of 1965 as last amended by section 3, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.020 are each amended to read as follows:

Any suitable person over the age of eighteen years, or any parent under the age of eighteen years may, if not otherwise disqualified, be appointed guardian or limited guardian of the person and/or the estate of an (~~(incompetent or disabled)~~) incapacitated person; any trust company regularly organized under the laws of this state and national banks when authorized so to do may act as guardian or limited guardian of the estate of an (~~(incompetent or disabled)~~) incapacitated person; and any nonprofit corporation may act as guardian or limited guardian of the person and/or estate of an (~~(incompetent or disabled)~~) incapacitated person if the articles of incorporation or bylaws of such corporation permit such action and such corporation is in compliance with all applicable provisions of Title 24 RCW. No person is qualified to serve as a (~~(domiciliary)~~) guardian who is

- (1) under eighteen years of age except as otherwise provided herein;
- (2) of unsound mind;
- (3) convicted of a felony or of a misdemeanor involving moral turpitude;

(4) a nonresident of this state who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate and caused such appointment to be filed with the court;

(5) a corporation not authorized to act as a fiduciary, guardian, or limited guardian in the state;

(6) a person whom the court finds unsuitable.

Sec. 4. Section 11.88.030, chapter 145, Laws of 1965 as last amended by section 3, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.030 are each amended to read as follows:

(1) Any ~~((interested))~~ person or entity may ~~((file a))~~ petition for the appointment of ~~((himself or some other))~~ a qualified person, trust company, national bank, or nonprofit corporation authorized in RCW 11.88.020 as now or hereafter amended as the guardian or limited guardian of an ~~((incompetent or disabled))~~ incapacitated person. No liability for filing a petition for guardianship or limited guardianship shall attach to a petitioner acting in good faith and upon reasonable basis. A petition for guardianship or limited guardianship shall state:

(a) The name, age, residence, and post office address of the ~~((incompetent or disabled))~~ alleged incapacitated person;

(b) The nature of ~~((his))~~ the alleged ~~((incompetency))~~ incapacity in accordance with RCW 11.88.010;

(c) The approximate value and description of ~~((his))~~ property, including any compensation, pension, insurance, or allowance, to which ~~((he))~~ the alleged incapacitated person may be entitled;

(d) Whether there is, in any state, a guardian or limited guardian, or pending guardianship action for the person or estate of the alleged ~~((incompetent or disabled))~~ incapacitated person;

(e) The residence and post office address of the person whom petitioner asks to be appointed guardian or limited guardian;

(f) The names and addresses, and nature of the relationship, so far as known or can be reasonably ascertained, of the persons most closely related by blood or marriage to the alleged ~~((incompetent or disabled))~~ incapacitated person;

(g) The name and address of the person or ~~((institution))~~ facility having the care and custody of the alleged ~~((incompetent or disabled))~~ incapacitated person;

(h) The reason why the appointment of a guardian or limited guardian is sought and the interest of the petitioner in the appointment, and whether the appointment is sought as guardian or limited guardian of the person, the estate, or both, and why no alternative to guardianship is appropriate;

(i) The nature and degree of the alleged ~~((disability))~~ incapacity and the specific areas of protection and assistance requested and the limitation of rights requested to be included in the court's order of appointment;

(j) The requested term of the limited guardianship to be included in the court's order of appointment;

(k) Whether the petitioner is proposing a specific individual to act as guardian ad litem and, if so, the individual's knowledge of or relationship to any of the parties, and why the individual is proposed.

(2) (a) The attorney general may petition for the appointment of a guardian or limited guardian in any case in which there is cause to believe that a guardianship is necessary and no private party is able and willing to petition.

(b) Prepayment of a filing fee shall not be required in any guardianship or limited guardianship brought by the attorney general. Payment of the filing fee shall be ordered from the estate of the incapacitated person at the hearing on the merits of the petition, unless in the judgment of the court, such payment would impose a hardship upon the incapacitated person, in which case the filing shall be waived.

(3) No filing fee shall be charged by the court for filing either a petition for guardianship or a petition for limited guardianship if the petition alleges that the alleged ((incompetent or disabled)) incapacitated person has total assets of a value of less than three thousand dollars.

((3)) (4)(a) Notice that a guardianship proceeding has been commenced shall be personally served upon the alleged incapacitated person along with a copy of the petition for appointment of a guardian. Such notice shall be served not more than fifteen days after the petition has been filed.

(b) Notice under this subsection shall include a clear and easily readable statement of the legal rights of the alleged incapacitated person that could be restricted or transferred to a guardian by a guardianship order as well as the right to counsel of choice and to a jury trial on the issue of incapacity. Such notice shall be in substantially the following form and shall be in capital letters, double-spaced, and in a type size not smaller than ten-point type:

IMPORTANT NOTICE
PLEASE READ CAREFULLY

A PETITION TO HAVE A GUARDIAN APPOINTED FOR YOU HAS BEEN FILED IN THE ... COUNTY SUPERIOR COURT BY IF A GUARDIAN IS APPOINTED, YOU COULD LOSE ONE OR MORE OF THE FOLLOWING RIGHTS:

(1) TO MARRY OR DIVORCE;

(2) TO VOTE OR HOLD AN ELECTED OFFICE;

(3) TO ENTER INTO A CONTRACT OR MAKE OR REVOKE A WILL;

(4) TO APPOINT SOMEONE TO ACT ON YOUR BEHALF;

(5) TO SUE AND BE SUED OTHER THAN THROUGH A GUARDIAN;

(6) TO POSSESS A LICENSE TO DRIVE;

(7) TO BUY, SELL, OWN, MORTGAGE, OR LEASE PROPERTY;

(8) TO CONSENT TO OR REFUSE MEDICAL TREATMENT;

(9) TO DECIDE WHO SHALL PROVIDE CARE AND ASSISTANCE;

(10) TO MAKE DECISIONS REGARDING SOCIAL ASPECTS OF YOUR LIFE.

UNDER THE LAW, YOU HAVE CERTAIN RIGHTS.

YOU HAVE THE RIGHT TO BE REPRESENTED BY A LAWYER OF YOUR OWN CHOOSING. THE COURT WILL APPOINT A LAWYER TO REPRESENT YOU IF YOU ARE UNABLE TO PAY OR PAYMENT WOULD RESULT IN A SUBSTANTIAL HARDSHIP TO YOU.

YOU HAVE THE RIGHT TO ASK FOR A JURY TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN TO HELP YOU.

YOU HAVE THE RIGHT TO BE PRESENT IN COURT WHEN THE HEARING IS HELD TO DECIDE WHETHER OR NOT YOU NEED A GUARDIAN.

(5) All petitions filed under the provisions of this section shall be heard within forty-five days unless an extension of time is requested by a party within such forty-five day period and granted for good cause shown. If an extension is granted, the court shall set a new hearing date.

Sec. 5. Section 11.88.040, chapter 145, Laws of 1965 as last amended by section 177, chapter 149, Laws of 1984 and RCW 11.88.040 are each amended to read as follows:

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given personally to the alleged ~~((incompetent or disabled))~~ incapacitated person, if over fourteen years of age.

Before appointing a guardian or a limited guardian, notice of a hearing, to be held not less than ten days after service thereof, shall be given by registered or certified mail requesting a return receipt signed by the addressee or an agent appointed by the addressee, or by personal service in the manner provided for services of summons, to the following:

(1) The alleged ~~((incompetent, disabled))~~ incapacitated person, or minor, if under fourteen years of age;

(2) A parent, if the alleged ~~((incompetent or disabled))~~ incapacitated person is a minor, all known children not residing with a notified person, and the spouse of the alleged ~~((incompetent or disabled))~~ incapacitated person if any;

(3) Any other person who has been appointed as guardian or limited guardian, or the person with whom the alleged ~~((incompetent or disabled))~~

incapacitated person resides. No notice need be given to those persons named in subsections (2) and (3) of this section if they have signed the petition for the appointment of the guardian or limited guardian or have waived notice of the hearing.

(4) If the petition is by a parent asking for ~~((his))~~ appointment as guardian or limited guardian of a minor child under the age of fourteen years, or if the petition ~~((be))~~ is accompanied by the written consent of a minor of the age of fourteen years or upward, ~~((consenting))~~ who consents to the appointment of the guardian or limited guardian asked for, or if the petition ~~((be))~~ is by a nonresident guardian of any minor or ~~((incompetent or disabled))~~ incapacitated person, then the court may appoint the guardian without notice of the hearing. The court for good cause may reduce the number of days of notice, but in every case, at least three days notice shall be given.

The alleged ~~((incompetent or disabled))~~ incapacitated person shall be present in court at the final hearing on the petition: PROVIDED, That this requirement may be waived at the discretion of the court for good cause other than mere inconvenience shown in the report to be provided by the guardian ad litem pursuant to RCW 11.88.090 as now or hereafter amended, or if no guardian ad litem is required to be appointed pursuant to RCW 11.88.090, as now or hereafter amended, at the discretion of the court for good cause shown by a party. Alternatively, the court may remove itself to the place of residence of the alleged ~~((incompetent or disabled))~~ incapacitated person and conduct the final hearing in the presence of the alleged ~~((incompetent or disabled))~~ incapacitated person. Final hearings on the petition may be held in closed court without admittance of any person other than those necessary to the action or proceeding.

If presence of the alleged ~~((incompetent or disabled))~~ incapacitated person is waived and the court does not remove itself to the place of residence of such person, the guardian ad litem shall appear in person at the final hearing on the petition.

Sec. 6. Section 7, chapter 95, Laws of 1975 1st ex. sess. as amended by section 5, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.045 are each amended to read as follows:

(1) ~~((An alleged incompetent or disabled person is entitled to independent legal counsel at his own expense to represent him in the procedure: PROVIDED, That if the alleged incompetent or disabled person is unable to pay for such representation or should such payment result in substantial hardship upon such person the county shall be responsible for such costs: PROVIDED FURTHER, That when, in the opinion of the court, the rights and interests of an alleged or adjudicated incompetent or disabled person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person:~~

(2)) (a) Alleged incapacitated individuals shall have the right to be represented by counsel at any stage in guardianship proceedings. The court shall provide counsel to represent any alleged incapacitated person at public expense when either: (i) The individual is unable to afford counsel, or (ii) the expense of counsel would result in substantial hardship to the individual, or (iii) the individual does not have practical access to funds with which to pay counsel. If the individual can afford counsel but lacks practical access to funds, the court shall provide counsel and may impose a reimbursement requirement as part of a final order. When, in the opinion of the court, the rights and interests of an alleged or adjudicated incapacitated person cannot otherwise be adequately protected and represented, the court on its own motion shall appoint an attorney at any time to represent such person. Counsel shall be provided as soon as practicable after a petition is filed and long enough before any final hearing to allow adequate time for consultation and preparation. Absent a convincing showing in the record to the contrary, a period of less than three weeks shall be presumed by a reviewing court to be inadequate time for consultation and preparation.

(b) Counsel for an alleged incapacitated individual shall act as an advocate for the client and shall not substitute counsel's own judgment for that of the client on the subject of what may be in the client's best interests. Counsel's role shall be distinct from that of the guardian ad litem, who is expected to promote the best interest of the alleged incapacitated individual, rather than the alleged incapacitated individual's expressed preferences.

(c) If an alleged incapacitated person is represented by counsel and does not communicate with counsel, counsel may ask the court for leave to withdraw for that reason. If satisfied, after affording the alleged incapacitated person an opportunity for a hearing, that the request is justified, the court may grant the request and allow the case to proceed with the alleged incapacitated person unrepresented.

(2) During the pendency of any guardianship, any attorney purporting to represent a person alleged or adjudicated to be incapacitated, shall enter a notice of appearance for appointment to represent the incapacitated or alleged incapacitated person. Fees for representation described in this section shall be subject to approval by the court pursuant to the provisions of RCW 11.92.180.

(3) The alleged ((incompetent or disabled)) incapacitated person is further entitled upon request to a jury trial on the issues of his or her alleged ((incompetency or disability)) incapacity. The standard of proof to be applied in a contested case, whether before a jury or the court, shall be that of clear, cogent, and convincing evidence.

((3)) (4) In all proceedings for appointment of a guardian or limited guardian, the court must be presented with a ((medical)) written report ((in writing)) from a physician or psychologist selected by the guardian ad litem

~~((appointed pursuant to RCW 11.88.090 as now or hereafter amended pertaining to the alleged incompetent or disabled persons' degree of incompetency or disability including the medical history if reasonably available, the effects of any current medication on appearance or the ability to participate fully in the proceedings, and a medical prognosis specifying the estimated length and severity of any current disability)).~~ The physician or psychologist shall have personally examined and interviewed the alleged incapacitated person within thirty days of the report to the court and shall have expertise in the type of disorder or incapacity the alleged incapacitated person is believed to have. The report shall contain the following information and shall be set forth in substantially the following format:

- (a) The name and address of the examining physician or psychologist;
- (b) The education and experience of the physician or psychologist pertinent to the case;
- (c) The dates of examinations of the alleged incapacitated person;
- (d) A summary of the relevant medical, functional, neurological, psychological, or psychiatric history of the alleged incapacitated person as known to the examining physician or psychologist;
- (e) The findings of the examining physician or psychologist as to the condition of the alleged incapacitated person;
- (f) Current medications;
- (g) The effect of current medications on the alleged incapacitated person's ability to understand or participate in guardianship proceedings;
- (h) Opinions on the specific assistance the alleged incapacitated person needs;
- (i) Identification of persons with whom the physician or psychologist has met or spoken regarding the alleged incapacitated person.

The court shall not enter an order appointing a guardian or limited guardian until a medical or psychological report meeting the above requirements is filed.

Sec. 7. Section 11.88.080, chapter 145, Laws of 1965 and RCW 11.88.080 are each amended to read as follows:

When either parent is deceased, the surviving parent of any minor child may, by ~~((his))~~ last will in writing appoint a guardian or guardians of the person, or of the estate or both, of ~~((his))~~ a minor child, whether born at the time of making ~~((such))~~ the will or afterwards, to continue during the minority of such child or for any less time~~((, and))~~. Every ~~((such))~~ testamentary guardian of the estate of ~~((such))~~ a child shall give bond in like manner and with like conditions as required by RCW 11.88.100 and 11.88.110, and he or she shall have the same powers and perform the same duties with regard to the person and estate of the minor as a guardian appointed ~~((as aforesaid))~~ under this chapter. The court shall confirm the parent's

testamentary appointment unless the court finds, based upon evidence presented at a hearing on the matter, that the individual appointed in the surviving parent's will is not qualified to serve.

Sec. 8. Section 11.88.090, chapter 145, Laws of 1965 as last amended by section 6, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.090 are each amended to read as follows:

(1) Nothing contained in RCW 11.88.080 through 11.88.120, 11.92.010 through 11.92.040, 11.92.060 through 11.92.120, 11.92.170, and 11.92.180, as now or hereafter amended, shall affect or impair the power of any court to appoint a guardian ad litem to defend the interests of any ~~((incompetent or disabled))~~ incapacitated person interested in any suit or matter pending therein, or to commence and prosecute any suit in his behalf.

(2) Upon receipt of a petition for appointment of guardian or limited guardian, except as provided herein, the court shall appoint a guardian ad litem to represent the best interests of the alleged ~~((incompetent or disabled))~~ incapacitated person, who shall be a person found or known by the court to

(a) be free of influence from anyone interested in the result of the proceeding;

(b) have the requisite knowledge, training, or expertise to perform the duties required by this section.

~~((In making this determination the court shall give due consideration to the type of incompetency or disability alleged and to any recommendations made to the court by public or private agencies having appropriate experience or expertise. PROVIDED, That))~~

No guardian ad litem need be appointed ((if)) when a parent is petitioning for a guardian or a limited guardian to be appointed for his or her minor child ((if)) and the minority of the child, as defined by RCW 11.92.010, is the sole basis of the petition. The order appointing the guardian ad litem shall recite the duties set forth in subsection ((~~(3)~~)) (5) of this section. The appointment of a guardian ad litem shall have no effect on the legal competency of the alleged ~~((incompetent or disabled))~~ incapacitated person and ~~((such appointment))~~ shall not overcome the presumption of competency or full legal and civil rights of the alleged ~~((incompetent or disabled))~~ incapacitated person.

(3) (a) The superior court of each county shall develop by September 1, 1991, a registry of persons who are willing and qualified to serve as guardians ad litem in guardianship matters. The court shall choose as guardians ad litem only persons whose names appear on the registry, except in extraordinary circumstances.

(b) To be eligible for the registry a person shall:

(i) Present a written statement of qualifications describing the person's knowledge, training, and experience in each of the following: Needs of impaired elderly people, physical disabilities, mental illness, developmental disabilities, and other areas relevant to the needs of incapacitated persons, legal procedure, and the requirements of chapter 11.88 and 11.92 RCW; and

(ii) Complete a training program approved by the court.

(c) The superior court of each county shall approve training programs designed to:

(i) Train otherwise qualified human service professionals in those aspects of legal procedure and the requirements of chapters 11.88 and 11.92 RCW with which a guardian ad litem should be familiar;

(ii) Train otherwise qualified legal professionals in those aspects of medicine, social welfare, and social service delivery systems with which a guardian ad litem should be familiar.

(d) The superior court of each county shall approve a guardian ad litem training program on or before June 1, 1991. The department of social and health services, aging and adult services administration, shall convene an advisory group to develop a model guardian ad litem training program. The advisory group shall consist of representatives from consumer, advocacy, and professional groups knowledgeable in developmental disabilities, neurological impairment, physical disabilities, mental illness, aging, legal, court administration, and other interested parties.

(e) Any superior court that has failed to adopt a guardian ad litem training program by September 1, 1992, shall use the model program developed by the advisory group convened by the department of social and health services, aging and adult services administration.

(4) The guardian ad litem's written statement of qualifications required by RCW 11.88.090(3)(b)(i) shall be made part of the record in each matter in which the person is appointed guardian ad litem.

(5) The guardian ad litem appointed pursuant to this section shall have the following duties:

(a) To meet and consult with the alleged ~~((incompetent or disabled))~~ incapacitated person as soon as practicable following appointment and explain, in language which such person can reasonably be expected to understand, the substance of the petition, the nature of the resultant proceedings, the person's right to contest the petition, the identification of the proposed guardian or limited guardian, the right to a jury trial on the issue of his or her alleged ~~((incompetency or disability))~~ incapacity, the right to independent legal counsel as provided by RCW 11.88.045, and the right to be present in court at the hearing on the petition;

(b) To obtain a written report according to RCW 11.88.045; and such other written or oral reports from other qualified professionals as are necessary to permit the guardian ad litem to complete the report required by this section;

(c) To meet with the person whose appointment is sought as guardian or limited guardian and ascertain:

(i) The proposed guardian's knowledge of the duties, requirements, and limitations of a guardian; and

(ii) The steps the proposed guardian intends to take or has taken to identify and meet the needs of the alleged incapacitated person;

(d) To consult as necessary to complete the investigation and report required by this section with those known relatives, friends, or other persons the guardian ad litem determines have had a significant, continuing interest in the welfare of the alleged incapacitated person;

(e) To provide the court with a written report which shall include the following:

(i) A description of the nature, cause, and degree of ((incompetency or disability)) incapacity, and the basis upon which this judgment was made;

(ii) A description of the needs of the incapacitated person for care and treatment, the probable residential requirements of the alleged incapacitated person and the basis upon which these findings were made;

((~~(ii)~~)) (iii) An evaluation of the appropriateness of the guardian or limited guardian whose appointment is sought and a description of the steps the proposed guardian has taken or intends to take to identify and meet current and emerging needs of the incapacitated person;

((~~(iii)~~) In the event the limited guardianship is ordered, its appropriate duration, and the limits)) (iv) A description of the abilities of the alleged incapacitated person and a recommendation as to whether a guardian or limited guardian should be appointed. If appointment of a limited guardian is recommended, the guardian ad litem shall recommend the specific areas of authority the limited guardian should have and the limitations and disabilities to be placed on the ((~~disabled~~)) incapacitated person; ((~~and~~

(~~iv~~)) (v) An evaluation of the person's mental ability to rationally exercise the right to vote and the basis upon which the evaluation is made;

(vi) Any expression of approval or disapproval made by the alleged ((incompetent or disabled)) incapacitated person concerning the proposed guardian or limited guardian or guardianship or limited guardianship((-);

((Such report shall also include a recommendation as to whether or not counsel should be appointed to represent the alleged incompetent or disabled person, and the reasons for such recommendation.

The investigation and report shall be made and forwarded to the court, with copies to the alleged incompetent or disabled person, and his attorney, if any has appeared, and to the petitioner, or his attorney within twenty

days after appointment, unless an extension of time has been granted by the court for good cause shown;

~~(c) To arrange for a written medical report pursuant to RCW 11.88-045 as now or hereafter amended;~~

~~(4)) (vii) Identification of persons with significant interest in the welfare of the alleged incapacitated person who should be advised of their right to request special notice of proceedings pursuant to RCW 11.92.150; and~~

~~(viii) Unless independent counsel has appeared for the alleged incapacitated person, an explanation of how the alleged incapacitated person responded to the advice of the right to jury trial, to independent counsel and to be present at the hearing on the petition.~~

Within twenty days after appointment of the guardian ad litem, and at least ten days before the hearing on the petition, unless an extension or reduction of time has been granted by the court for good cause, the guardian ad litem shall file its report and send a copy to the alleged incapacitated person and his or her spouse, all children not residing with a notified person, those persons described in (d) of this subsection, and persons who have filed a request for special notice pursuant to RCW 11.92.150;

(f) To advise the court of the need for appointment of counsel for the alleged incapacitated person within five days after the meeting described in (a) of this subsection unless (i) counsel has appeared, (ii) the alleged incapacitated person affirmatively communicated a wish not to be represented by counsel after being advised of the right to representation and of the conditions under which court-provided counsel may be available, or (iii) the alleged incapacitated person was unable to communicate at all on the subject, and the guardian ad litem is satisfied that the alleged incapacitated person does not affirmatively desire to be represented by counsel.

(6) If the petition is brought by an interested person or entity requesting the appointment of some other qualified person or entity and a prospective guardian or limited guardian cannot be found, the court shall order the guardian ad litem (~~and any other qualified person or organization~~) to investigate the availability of a possible guardian or limited guardian and to include the findings in a report to the court pursuant to RCW ~~((11.88.090(3)(b)))~~ 11.88.090(5)(c) as now or hereafter amended.

~~((5))~~ (7) The court appointed guardian ad litem shall have the authority, in the event that the alleged (~~incompetent or disabled~~) incapacitated person is in need of emergency life-saving medical services, and is unable to consent to such medical services due to (~~incompetence or disability~~) incapacity pending the hearing on the petition to give consent for such emergency life-saving medical services on behalf of the alleged (~~incompetent or disabled~~) incapacitated person.

~~((6))~~ (8) The guardian ad litem shall receive a fee determined by the court. The fee shall be charged to the alleged (~~incompetent or disabled~~) incapacitated person unless the court finds that such payment would result

in substantial hardship upon such person, in which case the county shall be responsible for such costs: PROVIDED, That if no guardian or limited guardian is appointed the court may charge such fee to the petitioner or the alleged (~~incompetent or disabled~~) incapacitated person, or divide the fee, as it deems just; and if the petition is found to be frivolous or not brought in good faith, the guardian ad litem fee shall be charged to the petitioner. The court shall not be required to provide for the payment of a fee to any salaried employee of a public (~~or nonprofit~~) agency.

(9) Upon the presentation of the guardian ad litem report and the entry of an order either dismissing the petition for appointment of guardian or limited guardian or appointing a guardian or limited guardian, the guardian ad litem shall be dismissed and shall have no further duties or obligations unless otherwise ordered by the court. If the court orders the guardian ad litem to perform further duties or obligations, they shall not be performed at county expense.

NEW SECTION. Sec. 9. A new section is added to chapter 11.88 RCW to read as follows:

(1) In determining the disposition of a petition for guardianship, the court's order shall be based upon findings as to the capacities, condition, and needs of the alleged incapacitated person, and shall not be based solely upon agreements made by the parties.

(2) Every order appointing a full or limited guardian of the person or estate shall include:

(a) Findings as to the capacities, condition, and needs of the alleged incapacitated person;

(b) The amount of the bond, if any, or a bond review period;

(c) When the next report of the guardian is due;

(d) Whether the guardian ad litem shall continue acting as guardian ad litem;

(e) Whether a review hearing shall be required upon the filing of the inventory;

(f) The authority of the guardian, if any, for investment and expenditure of the ward's estate; and

(g) Names and addresses of those persons described in RCW 11.92.090(5)(d), if any, whom the court believes should receive copies of further pleadings filed by the guardian with respect to the guardianship.

(3) If the court determines that a limited guardian should be appointed, the order shall specifically set forth the limits by either stating exceptions to the otherwise full authority of the guardian or by stating the specific authority of the guardian.

(4) In determining the disposition of a petition for appointment of a guardian or limited guardian of the estate only, the court shall consider whether the alleged incapacitated person is capable of giving informed medical consent or of making other personal decisions and, if not, whether a

guardian or limited guardian of the person of the alleged incapacitated person should be appointed for that purpose.

(5) If a court determines that the person is incapacitated and that a guardian or limited guardian should be appointed, the court shall determine whether the incapacity is a result of a developmental disability as defined by RCW 71A.10.020, and if so, determine whether the incapacity due to the developmental disability can be expected to continue indefinitely.

Sec. 10. Section 11.88.100, chapter 145, Laws of 1965 as last amended by section 1, chapter 271, Laws of 1983 and RCW 11.88.100 are each amended to read as follows:

Before letters of guardianship are issued, each guardian or limited guardian shall take and subscribe an oath and, unless dispensed with by order of the court as provided in RCW 11.88.105, file a bond, with sureties to be approved by the court, payable to the state, in such sum as the court may fix, taking into account the character of the assets on hand or anticipated and the income to be received and disbursements to be made, and such bond shall be conditioned substantially as follows:

The condition of this obligation is such, that if the above bound A.B., who has been appointed guardian or limited guardian for C.D., shall faithfully discharge the office and trust of such guardian or limited guardian according to law and shall render a fair and just account of his guardianship or limited guardianship to the superior court of the county of, from time to time as he shall thereto be required by such court, and comply with all orders of the court, lawfully made, relative to the goods, chattels, moneys, care, management, and education of such ~~((incompetent or disabled))~~ incapacitated person, or his or her property, and render and pay to such ~~((incompetent or disabled))~~ incapacitated person all moneys, goods, chattels, title papers, and effects which may come into the hands or possession of such guardian or limited guardian, at such time and in such manner as the court may order ~~((or adjudge))~~, then this obligation shall be void, otherwise ~~((to be and))~~ it shall remain in ~~((full force and))~~ effect.

The bond shall be for the use of the ~~((incompetent or disabled))~~ incapacitated person, and shall not become void upon the first recovery, but may be put in suit from time to time against all or any one of the obligors, in the name and for the use and benefit of any person entitled by the breach thereof, until the whole penalty is recovered thereon. The court may require an additional bond whenever for any reason it appears to the court that an additional bond should be given.

In all guardianships or limited guardianships of the person, and in all guardianship or limited guardianships of the estate, in which the petition alleges that the alleged ~~((incompetent or disabled))~~ incapacitated person has total assets of a value of less than three thousand dollars, the court may dispense with the requirement of a bond pending filing of an inventory confirming that the estate has total assets of less than three thousand dollars:

PROVIDED, That the guardian or limited guardian shall swear to report to the court any changes in the total assets of the ~~((incompetent or disabled))~~ incapacitated person increasing their value to over three thousand dollars: PROVIDED FURTHER, That ~~((said))~~ the guardian or limited guardian shall file a yearly statement showing the monthly income of the ~~((incompetent or disabled))~~ incapacitated person if said monthly income, excluding moneys from state or federal benefits, is over the sum of ~~((four))~~ five hundred dollars per month for any three consecutive months.

Sec. 11. Section 11.88.105, chapter 145, Laws of 1965 as amended by section 11, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.105 are each amended to read as follows:

In cases where all or a portion of the estate consisting of cash or securities ~~((or both,))~~ has been placed in possession of savings and loan associations or banks, trust companies, escrow corporations, or other corporations approved by the court and if a verified receipt signed by the custodian of the funds is filed by the guardian or limited guardian in court ~~((therefor))~~ stating that such corporations hold the ~~((same))~~ cash or securities subject to order of court ~~((then in such case)),~~ the court may in its discretion dispense with the ~~((giving of a))~~ bond or reduce the ~~((same))~~ amount of the bond by the amount of such deposits ~~((of cash or securities, and may order that no further reports by said guardian or limited guardian be required until such time as the guardian or limited guardian desires to withdraw such funds or change the investment thereof)).~~

Sec. 12. Section 11.88.107, chapter 145, Laws of 1965 as last amended by section 8, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.107 are each amended to read as follows:

In all cases where a bank or trust company, authorized to act as guardian or limited guardian, or where a nonprofit corporation is authorized under its articles of incorporation to act as guardian or limited guardian, is appointed as guardian or limited guardian, or acts as guardian or limited guardian under an appointment as such heretofore made, no bond shall be required: PROVIDED, That in the case of appointment of a nonprofit corporation court approval shall be required before any bond requirement of this chapter may be ~~((dispensed with))~~ waived.

NEW SECTION. Sec. 13. A new section is added to chapter 11.88 RCW to read as follows:

For guardianships involving veterans see chapter 73.36 RCW.

Sec. 14. Section 11.88.120, chapter 145, Laws of 1965 as last amended by section 9, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.120 are each amended to read as follows:

~~((The court in all cases shall have power to remove guardians or limited guardians for good and sufficient reasons, which shall be entered of record, and to appoint others in their place or in the place of those who may~~

die, who shall give bond and security for the faithful discharge of their duties as prescribed in RCW 11.88.100 as now or hereafter amended; and when any guardian or limited guardian shall be removed or die, and a successor be appointed, the court shall have power to compel such guardian or limited guardian removed to deliver up to such successor all goods, chattels, moneys, title papers, or other effects belonging to such incompetent or disabled person, which may be in the possession of such guardian or limited guardian so removed, or of the personal representatives of a deceased guardian or limited guardian, or in the possession of any other person or persons, or in the possession of a stand-by guardian or limited guardian and upon failure, to commit the party offending to prison, until he complies with the order of the court:)) (1) At any time after establishment of a guardianship or appointment of a guardian, the court may, upon the death of the guardian or limited guardian, or, for other good reason, modify or terminate the guardianship or replace the guardian or limited guardian.

(2) Any person, including an incapacitated person, may apply to the court for an order to modify or terminate a guardianship or to replace a guardian or limited guardian. If applicants are represented by counsel, counsel shall move for an order to show cause why the relief requested should not be granted. If applicants are not represented by counsel, they may move for an order to show cause, or they may deliver a written request to the clerk of the court.

(3) By the next judicial day after receipt of an unrepresented person's request to modify or terminate a guardianship order, or to replace a guardian or limited guardian, the clerk shall present the request to the court. The court may (a) direct the clerk to schedule a hearing, (b) appoint a guardian ad litem to investigate the issues raised by the application or to take any emergency action the court deems necessary to protect the incapacitated person until a hearing can be held, or (c) deny the application without scheduling a hearing, if it appears based on documents in the court file that the application is frivolous. Any denial of an application without a hearing shall be in writing with the reasons for the denial explained. A copy of the order shall be mailed by the clerk to the applicant, to the guardian, and to any other person entitled to receive notice of proceedings in the matter. Unless within thirty days after receiving the request from the clerk the court directs otherwise, the clerk shall schedule a hearing on the request and mail notice to the guardian, the incapacitated person, the applicant, all counsel of record, and any other person entitled to receive notice of proceedings in the matter.

(4) In a hearing on an application to modify or terminate a guardianship, or to replace a guardian or limited guardian, the court may grant such relief as it deems just and in the best interest of the incapacitated person.

(5) The court may order persons who have been removed as guardians to deliver any property or records belonging to the incapacitated person in

accordance with the court's order. Similarly, when guardians have died or been removed and property or records of an incapacitated person are being held by any other person, the court may order that person to deliver it in accordance with the court's order. Disobedience of an order to deliver shall be punishable as contempt of court.

Sec. 15. Section 6, chapter 95, Laws of 1975 1st ex. sess. as last amended by section 1, chapter 32, Laws of 1979 and RCW 11.88.125 are each amended to read as follows:

(1) The person appointed by the court as either guardian or limited guardian of the person and/or estate of an (~~incompetent or disabled~~) incapacitated person, shall file in writing with the court, a designated standby limited guardian or guardian to serve as limited guardian or guardian at the death or legal (~~incompetency or disability~~) incapacity of the court-appointed guardian or limited guardian. Notice of the guardian's designation of the standby guardian shall be given to the standby guardian, the incapacitated person and his or her spouse and adult children, any facility in which the incapacitated person resides, and any person entitled to special notice under RCW 11.92.150 or any person entitled to receive pleadings pursuant to section 9(2)(g) of this act. Such standby guardian or limited guardian shall have all the powers, duties, and obligations of the regularly appointed guardian or limited guardian and in addition shall, within a period of thirty days from the death or adjudication of (~~incompetency or disability~~) incapacity of the regularly appointed guardian or limited guardian, file with the superior court in the county in which the guardianship or limited guardianship is then being administered, a petition for appointment of a substitute guardian or limited guardian. Upon the court's appointment of a new, substitute guardian or limited guardian, the standby guardian or limited guardian shall make an accounting and report to be approved by the court, and upon approval of the court, the standby guardian or limited guardian shall be released from all duties and obligations arising from or out of the guardianship or limited guardianship.

(2) Letters of guardianship shall be issued to the standby guardian or limited guardian upon filing an oath and posting a bond as required by RCW 11.88.100 as now or hereafter amended. The oath may be filed prior to the appointed guardian or limited guardian's death. Notice of such appointment shall be provided to the standby guardian, the incapacitated person, and any facility in which the incapacitated person resides. The provisions of RCW 11.88.100 through 11.88.110 as now or hereafter amended shall apply to standby guardians and limited guardians.

(3) In addition to the powers of a standby limited guardian or guardian as noted in subsection (1) of this section, the standby limited guardian or guardian shall have the authority to provide timely, informed consent to necessary medical procedures, as authorized in RCW 11.92.040 as now or

hereafter amended, if the guardian or limited guardian cannot be located within four hours after the need for such consent arises.

Sec. 16. Section 11.88.130, chapter 145, Laws of 1965 as amended by section 15, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.88.130 are each amended to read as follows:

The court of any county having jurisdiction of any guardianship or limited guardianship proceeding is authorized to transfer jurisdiction and venue of the guardianship or limited guardianship proceeding to the court of any other county of the state upon application of the guardian ~~((or)),~~ limited guardian, or incapacitated person and such notice to an alleged ~~((incompetent or disabled))~~ incapacitated person or other interested party as the court may require. Such transfers of guardianship or limited guardianship proceedings shall be made to the court of a county wherein either the guardian or limited guardian or alleged ~~((incompetent or disabled))~~ incapacitated person resides, as the court may deem appropriate, at the time of making application for such transfer. The original order providing for any such transfer shall be retained as a permanent record by the clerk of the court in which such order is entered, and a certified copy thereof together with the original file in such guardianship or limited guardianship proceeding and a certified transcript of all record entries up to and including the order for such change shall be transmitted to the clerk of the court to which such proceeding is transferred.

Sec. 17. Section 11.88.140, chapter 145, Laws of 1965 as last amended by section 11, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.140 are each amended to read as follows:

(1) TERMINATION WITHOUT COURT ORDER. A guardianship or limited guardianship is terminated:

(a) Upon the attainment of full and legal age, as defined in RCW ~~((11.92.010))~~ 26.28.010 as now or hereafter amended, of any person defined as an ~~((incompetent or disabled))~~ incapacitated person pursuant to RCW 11.88.010 as now or hereafter amended solely by reason of youth, RCW 26.28.020 to the contrary notwithstanding;

(b) By an adjudication of ~~((competency))~~ capacity or an adjudication of termination of ~~((disability))~~ incapacity;

(c) By the death of the ~~((incompetent or disabled))~~ incapacitated person;

(d) By expiration of the term of limited guardianship specified in the order appointing the limited guardian, unless prior to such expiration a petition has been filed and served, as provided in RCW 11.88.040 as now or hereafter amended, seeking an extension of such term.

(2) TERMINATION OF GUARDIANSHIP FOR A MINOR BY DECLARATION OF COMPLETION. A guardianship for the benefit of a

minor may be terminated upon the minor's attainment of legal age, as defined in RCW 26.28.010 as now or hereafter amended, by the guardian filing a declaration that states:

(a) The date the minor attained legal age;

(b) That the guardian has paid all of the minor's funds in the guardian's possession to the minor, who has signed a receipt for the funds, and that the receipt has been filed with the court;

(c) That the guardian has completed the administration of the minor's estate and the guardianship is ready to be closed; and

(d) The amount of fees paid or to be paid to each of the following: (i) The guardian, (ii) lawyer or lawyers, (iii) accountant or accountants; and that the guardian believes the fees are reasonable and does not intend to obtain court approval of the amount of the fees or to submit a guardianship accounting to the court for approval. Subject to the requirement of notice as provided in this section, unless the minor petitions the court either for an order requiring the guardian to obtain court approval of the amount of fees paid or to be paid to the guardian, lawyers, or accountants, or for an order requiring an accounting, or both, within thirty days from the filing of the declaration of completion of guardianship, the guardian shall be automatically discharged without further order of the court. The guardian's powers will cease thirty days after filing the declaration of completion of guardianship. The declaration of completion of guardianship shall, at the time, be the equivalent of an entry of a decree terminating the guardianship, distributing the assets, and discharging the guardian for all legal intents and purposes.

Within five days of the date of filing the declaration of completion of guardianship, the guardian or the guardian's lawyer shall mail a copy of the declaration of completion to the minor together with a notice that shall be substantially as follows:

CAPTION OF CASE NOTICE OF FILING A DECLARATION OF
COMPLETION OF GUARDIANSHIP

NOTICE IS GIVEN that the attached Declaration of Completion of Guardianship was filed by the undersigned in the above-entitled court on the day of, 19..; unless you file a petition in the above-entitled court requesting the court to review the reasonableness of the fees, or for an accounting, or both, and serve a copy of the petition on the guardian or the guardian's lawyer, within thirty days after the filing date, the amount of fees paid or to be paid will be deemed reasonable, the acts of the guardian will be deemed approved, the guardian will be automatically discharged without further order of the court and the Declaration of Completion of Guardianship will be final and deemed the equivalent of an Order

terminating the guardianship, discharging the guardian and decreeing the distribution of the guardianship assets.

If you file and serve a petition within the period specified, the undersigned will request the court to fix a time and place for the hearing of your petition, and you will be notified of the time and place of the hearing, by mail, or by personal service, not less than ten days before the hearing on the petition.

DATED this day of, 19...

.....
GUARDIAN

If the minor, after reaching legal age, waives in writing the notice required by this section, the guardian will be automatically discharged without further order of the court and the declaration of completion of guardianship will be effective as an order terminating the guardianship without an accounting upon filing the declaration. If the guardian has been required to furnish a bond, and a declaration of completion of guardianship is filed according to this section, any bond furnished by the guardian shall be automatically discharged upon the discharge of the guardian.

(3) TERMINATION ON COURT ORDER. A guardianship or limited guardianship may be terminated by court order after such notice as the court may require((:

~~(a) If the guardianship or limited guardianship is of the estate and the estate is exhausted;~~

~~(b)) if the guardianship or limited guardianship is no longer necessary ((for any other reason)).~~

~~((3)) (4) EFFECT OF TERMINATION.~~ When a guardianship or limited guardianship terminates ~~((otherwise))~~ other than by the death of the ~~((incompetent or disabled))~~ incapacitated person, the powers of the guardian or limited guardian cease, except that a guardian or limited guardian of the estate may make disbursements for claims that are or may be allowed by the court, for liabilities already properly incurred for the estate or for the ~~((incompetent or disabled))~~ incapacitated person, and for expenses of administration. When a guardianship or limited guardianship terminates by death of the ~~((incompetent or disabled))~~ incapacitated person, the guardian or limited guardian of the estate may proceed under RCW 11.88.150 as now or hereafter amended, but the rights of all creditors against the ~~((incompetent's or disabled))~~ incapacitated person's estate shall be determined by the law of decedents' estates.

Sec. 18. Section 11.88.150, chapter 145, Laws of 1965 as last amended by section 12, chapter 309, Laws of 1977 ex. sess. and RCW 11.88.150 are each amended to read as follows:

(1) Upon the death of an incapacitated person, a guardian or limited guardian of the estate shall have authority to disburse or commit those

funds under the control of the guardian or limited guardian as are prudent and within the means of the estate for the disposition of the deceased incapacitated person's remains. Consent for such arrangement shall be secured according to RCW 68.50.160. If no person authorized by RCW 68.50.150 accepts responsibility for giving consent, the guardian or limited guardian of the estate may consent, subject to the provisions of this section and to the known directives of the deceased incapacitated person. Reasonable financial commitments made by a guardian or limited guardian pursuant to this section shall be binding against the estate of the deceased incapacitated person.

(2) Upon the death of an ~~((incompetent or disabled))~~ incapacitated person intestate the guardian or limited guardian of his estate has power under the letters issued to him and subject to the direction of the court to administer the estate as the estate of the deceased ~~((incompetent or disabled))~~ incapacitated person without further letters unless within forty days after death of the ~~((incompetent or disabled))~~ incapacitated person a petition is filed for letters of administration or for letters testamentary and the petition is granted. If the guardian or limited guardian elects to administer the estate under his letters of guardianship or limited guardianship, he shall petition the court for an order transferring the guardianship or limited guardianship proceeding to a probate proceeding, and upon court approval, the clerk of the court shall re-index the cause as a decedent's estate, using the same file number which ~~((is))~~ was assigned to the guardianship or limited guardianship proceeding. The guardian or limited guardian shall then be authorized to continue administration of the estate without the necessity for any further petition or hearing. Notice to creditors and other persons interested in the estate shall be published and may be combined with the notice of the guardian's or limited guardian's final account. This notice shall be given and published in the manner provided in ~~((RCW 11.40.010, once each week for three successive weeks, with proof by affidavit of the publication of such notice to be filed with the court. All claims which are not filed within four months after first publication or within four months after the date of filing of the copy of such notice to creditors with the clerk of the court, whichever is later, shall be barred against the estate))~~ chapter 11.40 RCW. Upon the hearing, the account may be allowed and the balance distributed to the persons entitled thereto, after the payment of such claims as may be allowed. Liability on the guardian's or limited guardian's bond shall continue until exonerated on settlement of his account, and may apply to the complete administration of the estate of the deceased ~~((incompetent or disabled))~~ incapacitated person with the consent of the surety. If letters of administration ~~((or letters testamentary))~~ are granted upon petition filed within forty days after the death of the ~~((incompetent or disabled))~~ incapacitated person, the personal representative shall supersede the guardian or limited guardian in the administration of the estate and the estate shall be administered as a decedent's estate as provided in this title, including the

publication of notice to creditors and other interested persons and the barring of creditors claims.

Sec. 19. Section 11.92.035, chapter 145, Laws of 1965 as amended by section 19, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.035 are each amended to read as follows:

(1) DUTY OF GUARDIAN TO PAY. A guardian of the estate is under a duty to pay from the estate all just claims against the estate of ~~((his incompetent))~~ the incapacitated person, whether they constitute liabilities of the ~~((incompetent))~~ incapacitated person which arose prior to the guardianship or liabilities properly incurred by the guardian for the benefit of the ~~((incompetent))~~ incapacitated person or his or her estate and whether arising in contract or in tort or otherwise, upon allowance of the claim by the court or upon approval of the court in a settlement of the guardian's accounts. The duty of the guardian to pay from the estate shall not preclude ~~((his))~~ the guardian's personal liability for his or her own contracts and acts made and performed on behalf of the estate as it exists according to the common law. If it appears that the estate is likely to be exhausted before all existing claims are paid, preference shall be given to (a) the expenses of administration including guardian's fees, attorneys' fees, and court costs; (b) prior claims for the care, maintenance and education of the ~~((incompetent))~~ incapacitated person and of ~~((his))~~ the person's dependents ~~((and existing claims for expenses of administration))~~ over other claims. Subject to court orders limiting such powers, a limited guardian of an estate shall have the same authority to pay claims.

(2) CLAIMS MAY BE PRESENTED. Any person having a claim against the estate of an ~~((incompetent))~~ incapacitated person, or against the guardian of his or her estate as such, may file a written claim with the court for determination at any time before it is barred by the statute of limitations~~((, and,))~~. After ten days' notice to a guardian or limited guardian, a hearing on the claim shall be held, at which upon proof thereof((, procure)) and after consideration of any defenses or objections by the guardian, the court may enter an order for its allowance and payment from the estate. Any action against the guardian of the estate as such shall be deemed a claim duly filed.

~~((3) DUTY OF LIMITED GUARDIAN TO PAY. Claims against a limited guardianship estate shall be paid by the limited guardian only to the extent specified in the order appointing the limited guardian.))~~

Sec. 20. Section 9, chapter 30, Laws of 1985 and RCW 11.92.040 are each amended to read as follows:

It shall be the duty of the guardian or limited guardian of an estate:

(1) To ~~((make out and))~~ file within three months after ~~((his or her))~~ the guardian's appointment a verified inventory of all the property of the ~~((incompetent or disabled))~~ incapacitated person which comes ~~((to his or~~

her)) into the guardian's possession or knowledge, including a statement of all encumbrances, liens, and other secured charges on any item;

(2) To file annually, within thirty days after the anniversary date of the guardian's or limited guardian's appointment, and also within thirty days after termination of the appointment, a written verified account of the administration(~~(-PROVIDED, That)), which account shall contain at least the following information:~~

(a) Identification of property of the guardianship estate as of the date of the last account or, in the case of the initial account, as of the date of inventory;

(b) Identification of all additional property received into the guardianship, including income by source;

(c) Identification of all expenditures made during the account period by major categories;

(d) Any adjustments to the guardianship estate required to establish its present fair market value, including gains or losses on sale or other disposition and any mortgages, deeds of trust or other encumbrances against the guardianship estate; and

(e) Identification of all property held in the guardianship estate as of the date of account, the assessed value of any real property and the guardian's estimate of the present fair market values of other property (including the basis on which such estimate is made), and the total net fair market value of the guardianship estate. In addition, immediately following such statement of present fair market value, the account shall set forth a statement of current amount of the guardian's bond and any other court-ordered protection for the security of the guardianship assets. The court in its discretion may allow reports at intervals of up to thirty-six months(~~(, with instruction to)) for estates with assets (exclusive of real property) having a value of not more than twice the homestead exemption. Notwithstanding contrary provisions of this section, the guardian or limited guardian of an estate need not file an annual report with the court if the funds of the guardianship are held for the benefit of a minor in a blocked account unless the guardian requests a withdrawal from such account, in which case the guardian shall provide a written verified account of the administration of the guardianship estate along with the guardian's petition for the withdrawal. The guardian or limited guardian ((that)) shall report any substantial ((increase)) change in income or assets ((or substantial change in the incompetent's or disabled person's condition shall be reported)) of the guardianship estate within thirty days of the ((substantial increase or)) occurrence of the change. A hearing shall be scheduled for court review and determination of provision for increased bond or other provision in accordance with RCW 11.88.100;~~

~~(3) ((Consistent with the powers granted by the court, if he or she is a guardian or limited guardian of the person, to care for and maintain the incompetent or disabled person, assert his or her rights and best interests, and provide timely, informed consent to necessary medical procedures, and if the incompetent or disabled person is a minor, to see that the incompetent or disabled person is properly trained and educated and that the incompetent or disabled person has the opportunity to learn a trade, occupation, or profession. As provided in RCW 11.88.125 as now or hereafter amended, the standby guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. The guardian or limited guardian of the person may be required to report the condition of his or her incompetent or disabled person to the court, at regular intervals or otherwise as the court may direct. PROVIDED, That no guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incompetent or disabled person who is, himself or herself, unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapters 71.05 or 72.23 RCW are followed. PROVIDED FURTHER, That nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:~~

~~(a) Therapy or other procedure which induces convulsion;~~

~~(b) Surgery solely for the purpose of psychosurgery;~~

~~(c) Amputation;~~

~~(d) Other psychiatric or mental health procedures which are intrusive on the person's body integrity, physical freedom of movement, or the rights set forth in RCW 71.05.370.~~

~~A guardian, limited guardian, or standby guardian who believes such procedures to be necessary for the proper care and maintenance of the incompetent or disabled person shall petition the court for an order unless the court has previously approved that procedure within thirty days immediately past. The court may make such order only after an attorney is appointed in accordance with RCW 11.88.045, as now or hereafter amended, if none has heretofore appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040, as now or hereafter amended)) If the court has made a finding as provided in section 9(5) of this 1990 act, that the person is incapacitated as a result of a developmental disability that is expected to continue indefinitely and the incapacitated person's estate has a value, exclusive of real property, of not more than twice the homestead exemption, the court, in its discretion, may allow reports at intervals up to thirty-six months and may modify or waive certain reporting requirements in subsection (2) of this section that the court considers unduly burdensome or inapplicable. The court may not waive the requirement that the guardian or~~

limited guardian report any substantial change in the incapacitated person's income or assets;

(4) ~~((If he or she is a guardian or limited guardian of the estate,))~~ To protect and preserve ~~((it))~~ the guardianship estate, to apply it as provided in this chapter, to account for it faithfully, to perform all of the duties required by law, and at the termination of the guardianship or limited guardianship, to deliver the assets of the ~~((incompetent or disabled))~~ incapacitated person to the persons entitled thereto. Except as provided to the contrary herein, the court may authorize a guardian or limited guardian to do anything that a trustee can do under the provisions of RCW 11.98.070 for a period not exceeding one year from the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer;

(5) To invest and reinvest the property of the ~~((incompetent or disabled))~~ incapacitated person in accordance with the rules applicable to investment of trust estates by trustees as provided in chapter 11.100 RCW, except that:

(a) No investments shall be made without prior order of the court in any property other than unconditional interest bearing obligations of this state or of the United States and in obligations the interest and principal of which are unconditionally guaranteed by the United States, and in share accounts or deposits which are insured by an agency of the United States government. Such prior order of the court may authorize specific investments, or, in the discretion of the court, may authorize the guardian or limited guardian during a period not exceeding one year following the date of the order or for a period corresponding to the interval in which the guardian's or limited guardian's report is required to be filed by the court pursuant to subsection (2) of this section, whichever period is longer, to invest and reinvest as provided in chapter 11.100 RCW without further order of the court;

(b) If it is for the best interests of the ~~((incompetent or disabled))~~ incapacitated person that a specific property be used by the ~~((incompetent or disabled))~~ incapacitated person rather than sold and the proceeds invested, the court may so order;

(6) To apply to the court ~~((for))~~ no later than the filing of the inventory for an order authorizing ((any)) disbursements on behalf of the ((incompetent or disabled)) incapacitated person: PROVIDED, HOWEVER, That the guardian or limited guardian of the estate, or the person, department, bureau, agency, or charitable organization having the care and custody of an ~~((incompetent or disabled))~~ incapacitated person, may apply to the court for an order directing the guardian or limited guardian of the estate to pay to the person, department, bureau, agency, or charitable organization having the care and custody of an ~~((incompetent or disabled))~~ incapacitated

person, or if the guardian or limited guardian of the estate has the care and custody of the (~~incompetent or disabled~~) incapacitated person, directing the guardian or limited guardian of the estate to apply an amount weekly, monthly, quarterly, semi-annually, or annually, as the court may direct, to be expended in the care, maintenance, and education of the (~~incompetent or disabled~~) incapacitated person and of his or her dependents. In proper cases, the court may order payment of amounts directly to the (~~incompetent or disabled~~) incapacitated person for his or her maintenance or incidental expenses. The amounts authorized under this section may be decreased or increased from time to time by direction of the court. If payments are made to another under an order of the court, the guardian or limited guardian of the estate is not bound to see to the application thereof.

NEW SECTION. Sec. 21. A new section is added to chapter 11.92 RCW to read as follows:

It shall be the duty of the guardian or limited guardian of the person:

(1) To file within three months after appointment a personal care plan for the incapacitated person which shall include (a) an assessment of the incapacitated person's physical, mental, and emotional needs and of such person's ability to perform or assist in activities of daily living, and (b) the guardian's specific plan for meeting the identified and emerging personal care needs of the incapacitated person.

(2) To file annually or, where a guardian of the estate has been appointed, at the time an account is required to be filed under RCW 11.92-.040, a report on the status of the incapacitated person, which shall include:

(a) The address and name of the incapacitated person and all residential changes during the period;

(b) The services or programs which the incapacitated person receives;

(c) The medical status of the incapacitated person;

(d) The mental status of the incapacitated person;

(e) Changes in the functional abilities of the incapacitated person;

(f) Activities of the guardian for the period;

(g) Any recommended changes in the scope of the authority of the guardian;

(h) The identity of any professionals who have assisted the incapacitated person during the period.

If the court has made a finding as provided in section 9(5) of this 1990 act, that the person is incapacitated as a result of a developmental disability that is expected to continue indefinitely, the court in its discretion, may allow reports at intervals up to thirty-six months and may modify or waive certain reporting requirements in this subsection, that the court considers inapplicable or unduly burdensome. The court may not waive the requirement that the guardian or limited guardian report any substantial change in the incapacitated person's condition.

(3) To report to the court within thirty days any substantial change in the incapacitated person's condition, or any changes in residence of the incapacitated person.

(4) Consistent with the powers granted by the court, to care for and maintain the incapacitated person in the setting least restrictive to the incapacitated person's freedom and appropriate to the incapacitated person's personal care needs, assert the incapacitated person's rights and best interests, and if the incapacitated person is a minor or where otherwise appropriate, to see that the incapacitated person receives appropriate training and education and that the incapacitated person has the opportunity to learn a trade, occupation, or profession.

(5) Consistent with RCW 7.70.065, to provide timely, informed consent for health care of the incapacitated person, except in the case of a limited guardian where such power is not expressly provided for in the order of appointment or subsequent modifying order as provided in RCW 11.88.125 as now or hereafter amended, the standby guardian or standby limited guardian may provide timely, informed consent to necessary medical procedures if the guardian or limited guardian cannot be located within four hours after the need for such consent arises. No guardian, limited guardian, or standby guardian may involuntarily commit for mental health treatment, observation, or evaluation an alleged incapacitated person who is unable or unwilling to give informed consent to such commitment unless the procedures for involuntary commitment set forth in chapter 71.05 or 72.23 RCW are followed. Nothing in this section shall be construed to allow a guardian, limited guardian, or standby guardian to consent to:

- (a) Therapy or other procedure which induces convulsion;
- (b) Surgery solely for the purpose of psychosurgery;
- (c) Other psychiatric or mental health procedures that restrict physical freedom of movement, or the rights set forth in RCW 71.05.370.

A guardian, limited guardian, or standby guardian who believes these procedures are necessary for the proper care and maintenance of the incapacitated person shall petition the court for an order unless the court has previously approved the procedure within the past thirty days. The court may order the procedure only after an attorney is appointed in accordance with RCW 11.88.045 if no attorney has previously appeared, notice is given, and a hearing is held in accordance with RCW 11.88.040.

NEW SECTION. Sec. 22. A new section is added to chapter 11.92 RCW to read as follows:

(1) All banks and trust companies as defined in RCW 30.04.010, all savings banks as defined in RCW 32.04.020, all savings and loan associations as defined in RCW 31.12.005, all insurance companies holding a certificate of authority under chapter 48.05 RCW, or any agent who constitutes a salesperson or broker-dealer of securities under the definitions of RCW 21.20.005 shall, upon receipt of documentation that a guardian has

been appointed and has authority over assets held by a client or depositor of the company or agent, provide the guardian access and control over the asset; and shall at that time forward a report to the court which includes the following: (a) Cause number; (b) name of the incapacitated person; (c) account number or numbers; (d) name and address of client or depositor owning assets; (e) name of the guardian being provided assets or access to assets; (f) value of the asset or assets; and (g) the date the guardian assumed control over the assets. The report shall be signed by a representative of the agent or company and sent by the individual or organization to the clerk of the court.

(2) Any company or agent described in subsection (1) of this section that provides a guardian with access to a safe deposit box shall make an inventory of the contents of the box and attach this inventory to the report sent to the clerk of the court before releasing the contents of the box to the guardian.

Sec. 23. Section 11.92.050, chapter 145, Laws of 1965 as amended by section 21, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.050 are each amended to read as follows:

(1) Upon the filing of any intermediate guardianship or limited guardianship account required by statute, or of any intermediate account required by court rule or order, the guardian or limited guardian may petition the court for an order settling his account with regard to any and all receipts, expenditures and investments made and acts done by the guardian or limited guardian to the date of said interim report. Upon such petition being filed, the court may in its discretion, where the size or condition of the estate warrants it, set a date for the hearing of such petition and require the service of the petition and a notice of such hearing as provided in RCW 11.88.040 as now or hereafter amended; and, in the event such a hearing be ordered, the court shall also appoint a guardian ad litem, whose duty it shall be to investigate the report of the guardian or limited guardian of the estate and to advise the court thereon at said hearing, in writing. At such hearing on said report of the guardian or limited guardian, if the court be satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian or limited guardian has in all respects discharged his trust with relation to such receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account, and such order shall be final and binding upon the ~~((incompetent or disabled))~~ incapacitated person, subject only to the right of appeal as upon a final order; provided that at the time of final account of said guardian or limited guardian or within one year after said ~~((incompetent or disabled))~~ incapacitated person attains his majority any such interim account may be challenged by said ~~((incompetent or disabled))~~ incapacitated person on the ground of fraud.

(2) The procedure established in subsection (1) of this section for financial accounts by guardians or limited guardians of the estate shall apply to personal care reports filed by guardians or limited guardians of the person under section 21 of this act.

Sec. 24. Section 11.92.053, chapter 145, Laws of 1965 and RCW 11.92.053 are each amended to read as follows:

Within ninety days after the termination of a guardianship for any reason other than the death of the ~~((incompetent))~~ incapacitated person intestate, the guardian or limited guardian of the estate shall petition the court for an order settling his account as filed in accordance with RCW 11.92.040(2) with regard to any and all receipts, expenditures and investments made and acts done by the guardian to the date of said termination. Upon such petition being filed, the court shall set a date for the hearing of such petition after notice has been given in accordance with RCW 11.88.040. Any person interested may file objections to such petition or may appear at the time and place fixed for the hearing thereof and present his objections thereto. The court may take such testimony as it deems proper or necessary to determine whether an order settling the account should be issued and the transactions of the guardian be approved.

At such hearing on said petition of the guardian or limited guardian, if the court be satisfied that the actions of the guardian or limited guardian have been proper, and that the guardian has in all respects discharged his trust with relation to such receipts, expenditures, investments, and acts, then, in such event, the court shall enter an order approving such account, and such order shall be final and binding upon the ~~((incompetent))~~ incapacitated person, subject only to the right of appeal as upon a final order: **PROVIDED**, That within one year after said incompetent attains his majority any such account may be challenged by ~~((said incompetent))~~ the incapacitated person on the ground of fraud.

Sec. 25. Section 11.92.056, chapter 145, Laws of 1965 as amended by section 22, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.056 are each amended to read as follows:

If, at any hearing upon a petition to settle the account of any guardian or limited guardian, it shall appear to the court that said guardian or limited guardian has not fully accounted or that said account should not be settled, the court may continue said hearing to a day certain and may cite the surety or sureties upon the bond of said guardian or limited guardian to appear upon the date fixed in said citation and show cause why the account should not be disapproved and judgment entered for any deficiency against said guardian or limited guardian and the surety or sureties upon his or her bond. Said citation shall be personally served upon said surety or sureties in the manner provided by law for the service of summons in civil actions and shall be served not less than twenty days previous to said hearing. At said hearing any interested party, including the surety so cited, shall have the

right to introduce any evidence which shall be material to the matter before the court. If, at said hearing, the final account of said guardian or limited guardian shall not be approved and the court shall find that said guardian or limited guardian is indebted to the ~~((incompetent or disabled))~~ incapacitated person in any amount, said court may thereupon enter final judgment against said guardian or limited guardian and the surety or sureties upon his or her bond, which judgment shall be enforceable in the same manner and to the same extent as judgments in ordinary civil actions.

Sec. 26. Section 11.92.060, chapter 145, Laws of 1965 as amended by section 23, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.060 are each amended to read as follows:

(1) GUARDIAN MAY SUE AND BE SUED. When there is a guardian of the estate, all actions between the ~~((incompetent))~~ incapacitated person or the guardian and third persons in which it is sought to charge or benefit the estate of the ~~((incompetent))~~ incapacitated person shall be prosecuted by or against the guardian of the estate as such. ~~((He))~~ The guardian shall represent the interests of the ~~((incompetent))~~ incapacitated person in the action and all process shall be served on him or her. A guardian or limited guardian of the estate shall report to the court any action commenced against the incapacitated person and shall secure court approval prior to initiating any legal action in the name of the incapacitated person.

(2) JOINDER, AMENDMENT AND SUBSTITUTION. When the guardian of the estate is under personal liability for his or her own contracts and acts made and performed on behalf of the estate ~~((he))~~ the guardian may be sued both as guardian and in his or her personal capacity in the same action. Misnomer or the bringing of the action by or against the ~~((incompetent))~~ incapacitated person shall not be grounds for dismissal of the action and leave to amend or substitute shall be freely granted. If an action was commenced by or against the ~~((incompetent))~~ incapacitated person before the appointment of a guardian of his or her estate, such guardian when appointed may be substituted as a party for the ~~((incompetent))~~ incapacitated person. If the appointment of the guardian of the estate is terminated, his or her successor may be substituted; if the ~~((incompetent))~~ incapacitated person dies, his or her personal representative may be substituted; if the ~~((incompetent becomes competent, he))~~ incapacitated person is no longer incapacitated the person may be substituted.

(3) GARNISHMENT, ATTACHMENT AND EXECUTION. When there is a guardian of the estate, the property and rights of action of the ~~((incompetent))~~ incapacitated person shall not be subject to garnishment or attachment, except for the foreclosure of a mortgage or other lien, and execution shall not issue to obtain satisfaction of any judgment against the ~~((incompetent))~~ incapacitated person or the guardian of ~~((his))~~ the persons' estate as such.

(4) **COMPROMISE BY GUARDIAN.** Whenever it is proposed to compromise or settle any claim by or against the ~~((incompetent))~~ incapacitated person or the guardian as such, whether arising as a result of personal injury or otherwise, and whether arising before or after appointment of a guardian, the court on petition of the guardian of the estate, if satisfied that such compromise or settlement will be for the best interests of the ~~((incompetent))~~ incapacitated person, may enter an order authorizing the settlement or compromise be made.

(5) **LIMITED GUARDIAN.** Limited guardians may serve and be served with process or actions on behalf of the ~~((disabled))~~ incapacitated person, but only to the extent provided for in the court order appointing a limited guardian.

Sec. 27. Section 11.92.090, chapter 145, Laws of 1965 as amended by section 24, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.090 are each amended to read as follows:

Whenever it shall appear to the satisfaction of a court by the petition of any guardian or limited guardian, that it is necessary or proper to sell, exchange, lease, mortgage, or grant an easement, license or similar interest in any of the real or personal property of the estate of ~~((such incompetent or disabled))~~ the incapacitated person for the purpose of paying debts or for the care, support and education of ~~((such incompetent or disabled))~~ the incapacitated person, or to redeem any property of ~~((such incompetent's or disabled))~~ the incapacitated person's estate covered by mortgage or other lien, or for the purpose of making any investments, or for any other purpose which to the court may seem right and proper, the court may make an order directing such sale, exchange, lease, mortgage, or grant of easement, license or similar interest of such part or parts of the real or personal property as shall to the court seem proper.

Sec. 28. Section 11.92.100, chapter 145, Laws of 1965 as amended by section 25, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.100 are each amended to read as follows:

Such application shall be by petition, verified by the oath of the guardian or limited guardian, and shall substantially set forth:

(1) The value and character of all personal estate belonging to ~~((such incompetent or disabled))~~ the incapacitated person that has come to the knowledge or possession of such guardian or limited guardian.

(2) The disposition of such personal estate.

(3) The amount and condition of the ~~((incompetent's or disabled))~~ incapacitated person's personal estate, if any, dependent upon the settlement of any estate, or the execution of any trust.

(4) The annual income of the real estate of the ~~((incompetent or disabled))~~ incapacitated person.

(5) The amount of rent received and the application thereof.

(6) The proposed manner of reinvesting the proceeds of the sale, if asked for that purpose.

(7) Each item of indebtedness, or the amount and character of the lien, if the sale is ~~((prayed))~~ requested for the liquidation thereof.

(8) The age of the ~~((incompetent or disabled))~~ incapacitated person, where and with whom residing.

(9) All other facts connected with the estate and condition of the ~~((incompetent or disabled))~~ incapacitated person necessary to enable the court to fully understand the same. If there is no personal estate belonging to ~~((such incompetent or disabled))~~ the incapacitated person in possession or expectancy, and none has come into the hands of such guardian or limited guardian, and no rents have been received, the fact shall be stated in the application.

Sec. 29. Section 11.92.110, chapter 145, Laws of 1965 as amended by section 26, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.110 are each amended to read as follows:

The order directing the sale of any of the real property of the estate of ~~((such incompetent or disabled))~~ the incapacitated person shall specify the particular property affected and the method, whether by public or private sale or by negotiation, and terms thereof, and with regard to the procedure and notices to be employed in conducting such sale, the provisions of RCW 11.56.060, 11.56.070, 11.56.080, and 11.56.110 shall be followed unless the court otherwise directs.

Sec. 30. Section 11.92.115, chapter 145, Laws of 1965 as amended by section 27, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.115 are each amended to read as follows:

The guardian or limited guardian making any sale of real estate, either at public or private sale or sale by negotiation, shall within ten days after making such sale file with the clerk of the court his return of such sale, the same being duly verified. At any time after the expiration of ten days from the filing of such return, the court may, without notice, approve and confirm such sale and direct proper instruments of transfer to be executed and delivered. Upon the confirmation of any such sale, the court shall direct the guardian or limited guardian to make, execute and deliver instruments conveying the title to the person to whom such property may be sold and such instruments of conveyance shall be deemed to convey all the estate, rights and interest of the ~~((incompetent or disabled))~~ incapacitated person and of ~~((his))~~ the persons' estate. In the case of a sale by negotiation the guardians or limited guardians shall publish a notice in one issue of a legal newspaper published in the county in which the estate is being administered; the substance of such notice shall include the legal description of the property sold, the selling price and the date after which the sale may be confirmed: PROVIDED, That such confirmation date shall be at least ten days after such notice is published.

Sec. 31. Section 11.92.130, chapter 145, Laws of 1965 as amended by section 29, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.130 are each amended to read as follows:

If any person who is bound by contract in writing to perform shall become (~~(incompetent or become a disabled person)~~) incapacitated before making the performance, the court having jurisdiction of the guardianship or limited guardianship of such property may, upon application of the guardian or limited guardian of (~~(such incompetent or disabled)~~) the incapacitated person, or upon application of the person claiming to be entitled to the performance, make an order authorizing and directing the guardian or limited guardian to perform such contract. The application and the proceedings, shall, as nearly as may be, be the same as provided in chapter 11.60 RCW.

Sec. 32. Section 10, chapter 30, Laws of 1985 and RCW 11.92.140 are each amended to read as follows:

The court, upon the petition of a guardian of the estate of an (~~(incompetent or disabled)~~) incapacitated person (~~((collectively hereafter referred to in this section as "incompetent");~~)) other than the guardian of a minor, and after such notice as the court directs and other notice to all persons interested as required by chapter 11.96 RCW, may authorize the guardian to take any action, or to apply funds not required for the (~~(incompetent's)~~) incapacitated person's own maintenance and support, in any fashion the court approves as being in keeping with the (~~(incompetent's)~~) incapacitated person's wishes so far as they can be ascertained and as designed to minimize insofar as possible current or prospective state or federal income and estate taxes, permit entitlement under otherwise available federal or state medical or other assistance programs, and to provide for gifts to such charities, relatives, and friends as would be likely recipients of donations from the (~~(incompetent)~~) incapacitated person.

The action or application of funds may include but shall not be limited to the making of gifts, to the conveyance or release of the (~~(incompetent's)~~) incapacitated person's contingent and expectant interests in property including marital property rights and any right of survivorship incident to joint tenancy or tenancy by the entirety, to the exercise or release of the (~~(incompetent's)~~) incapacitated person's powers as donee of a power of appointment, the making of contracts, the creation of revocable or irrevocable trusts of property of the (~~(incompetent's)~~) incapacitated person's estate which may extend beyond the (~~(incompetent's)~~) incapacitated person's disability or life, the exercise of options of the (~~(incompetent)~~) incapacitated person to purchase securities or other property, the exercise of the (~~(incompetent's)~~) incapacitated person's right to elect options and to change beneficiaries under insurance and annuity policies and the surrendering of policies

for their cash value, the exercise of the ~~((incompetent's))~~ incapacitated person's right to any elective share in the estate of the ~~((incompetent's))~~ incapacitated person's deceased spouse, and the renunciation or disclaimer of any interest acquired by testate or intestate succession or by inter vivos transfer.

The guardian in the petition shall briefly outline the action or application of funds for which approval is sought, the results expected to be accomplished thereby and the ~~((tax))~~ savings expected to accrue. The proposed action or application of funds may include gifts of the ~~((incompetent's))~~ incapacitated person's personal or real property. Gifts may be for the benefit of prospective legatees, devisees, or heirs apparent of the ~~((incompetent))~~ incapacitated person, or may be made to individuals or charities in which the ~~((incompetent))~~ incapacitated person is believed to have an interest. Gifts may or may not, in the discretion of the court, be treated as advancements to donees who would otherwise inherit property from the ~~((incompetent))~~ incapacitated person under the ~~((incompetent's))~~ incapacitated person's will or under the laws of descent and distribution. The guardian shall also indicate in the petition that any planned disposition is consistent with the intentions of the ~~((incompetent))~~ incapacitated person insofar as the intentions can be ascertained, and if the ~~((incompetent's))~~ incapacitated person's intentions cannot be ascertained, the ~~((incompetent))~~ incapacitated person will be presumed to favor reduction in the incidence of the various forms of taxation and the partial distribution of the ~~((incompetent's))~~ incapacitated person's estate as provided in this section. The guardian shall not, however, be required to include as a beneficiary any person whom there is reason to believe would be excluded by the ~~((incompetent))~~ incapacitated person. No guardian may be required to file a petition as provided in this section, and a failure or refusal to so petition the court does not constitute a breach of the guardian's fiduciary duties.

Sec. 33. Section 11, chapter 30, Laws of 1985 and RCW 11.92.150 are each amended to read as follows:

At any time after the issuance of letters of guardianship in the estate of any ~~((incompetent or disabled))~~ person and/or incapacitated person, any person interested in the estate, or in the ~~((incompetent or disabled))~~ incapacitated person, or any relative of the ~~((incompetent or disabled))~~ incapacitated person, or any authorized representative of any agency, bureau, or department of the United States government from or through which any compensation, insurance, pension or other benefit is being paid, or is payable, may serve upon the guardian or limited guardian, or upon the attorney for the guardian or limited guardian, and file with the clerk of the court where the ~~((administration of the))~~ guardianship or limited guardianship of the person and/or estate is pending, a written request stating ~~((that special written notice is desired of any or all of the following matters, steps or proceedings in the administration of the estate:~~

~~(1) Filing of petition for sales, exchanges, leases, mortgages, or grants of easements, licenses, or similar interests in any property of the estate.~~

~~(2) Filing of all intermediate or final accountings or accountings of any nature whatsoever.~~

~~(3) Petitions by the guardian or limited guardian for family allowances or allowances for the incompetent or disabled person or any other allowance of every nature from the funds of the estate.~~

~~(4) Petitions for the investment of the funds of the estate.~~

~~(5) Petition to terminate guardianship or limited guardianship or petition for adjudication of competency.~~

~~(6) Petition for judicial proceedings under chapter 11.96 RCW)) the specific actions of which the applicant requests advance notice. Where the notice does not specify matters for which notice is requested, the guardian or limited guardian shall provide copies of all documents filed with the court and advance notice of his or her application for court approval of any action in the guardianship.~~

The request for special written notice shall designate the name, address and post office address of the person upon whom the notice is to be served and no service shall be required under this section and RCW 11.92.160 as now or hereafter amended other than in accordance with the designation unless and until a new designation has been made.

When any account, report, petition, or proceeding is filed in the estate of which special written notice is requested, the court shall fix a time for hearing which shall allow at least ten days for service of the notice before the hearing; and notice of the hearing shall be served upon the person designated in the written request at least ten days before the date fixed for the hearing. The service may be made by leaving a copy with the person designated, or that person's authorized representative, or by mailing through the United States mail, with postage prepaid to the person and place designated.

Sec. 34. Section 11.92.160, chapter 145, Laws of 1965 as amended by section 31, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.160 are each amended to read as follows:

Whenever any request for special written notice is served as provided in this section and RCW 11.92.150 as now or hereafter amended, the person making such request may, upon failure of any guardian or limited guardian for any ~~((incompetent or disabled))~~ incapacitated person, to file any account or report required by law, petition the court administering such estate for a citation requiring such guardian or limited guardian to file such report or account, or to show cause for failure to do so, and thereupon the court shall issue such citation and hold a hearing thereon and enter such order as is required by the law and the facts.

Sec. 35. Section 11.92.170, chapter 145, Laws of 1965 as last amended by section 16, chapter 309, Laws of 1977 ex. sess. and RCW 11.92.170 are each amended to read as follows:

Whenever it is made to appear that it would be in the best interests of the ~~((incompetent or disabled))~~ incapacitated person, the court may order the transfer of property in this state to a guardian or limited guardian of the estate of the ~~((incompetent or disabled))~~ incapacitated person appointed in another jurisdiction, or to a person or institution having similar authority with respect to the ~~((incompetent or disabled))~~ incapacitated person.

Sec. 36. Section 11.92.180, chapter 145, Laws of 1965 as amended by section 33, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.180 are each amended to read as follows:

A guardian or limited guardian shall be allowed such compensation for his or her services as guardian or limited guardian as the court shall deem just and reasonable. Guardians and limited guardians shall not be compensated at public expense. Additional compensation may be allowed for ~~((his necessary))~~ other administrative costs, including services ((as)) of an attorney and for other ((necessary)) services not ((required of a)) provided by the guardian or limited guardian. ((He may also be allowed compensation for necessary expenses in the administration of his trust, including reasonable attorney's fees if the employment of an attorney for the particular purpose is necessary:)) Where a guardian or limited guardian is an attorney, the guardian or limited guardian shall separately account for time for which compensation is requested for services as a guardian or limited guardian as contrasted to time for which compensation for legal services provided to the guardianship is requested. In all cases, compensation of the guardian or limited guardian and his or her expenses including attorney's fees shall be fixed by the court and may be allowed at any annual or final accounting; but at any time during the administration of the estate, the guardian or limited guardian or his or her attorney may apply to the court for an allowance upon the compensation or necessary expenses of the guardian or limited guardian and for attorney's fees for services already performed. If the court finds that the guardian or limited guardian has failed to discharge his or her duties as such in any respect, it may deny ~~((him))~~ the guardian any compensation whatsoever or may reduce the compensation which would otherwise be allowed.

Sec. 37. Section 11.92.185, chapter 145, Laws of 1965 as amended by section 34, chapter 95, Laws of 1975 1st ex. sess. and RCW 11.92.185 are each amended to read as follows:

The court shall have authority to bring before it, in the manner prescribed by RCW 11.48.070, any person or persons suspected of having in his or her possession or having concealed, embezzled, conveyed or disposed of any of the property of the estate of ~~((incompetents or disabled))~~ incapacitated persons subject to administration under this title.

NEW SECTION. Sec. 38. This act shall take effect on July 1, 1991.

Passed the Senate March 6, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 123

[Substitute Senate Bill No. 6700]

MOTOR FREIGHT CARRIERS OF RECOVERED MATERIALS

AN ACT Relating to regulation of motor freight carriers transporting recovered materials; adding new sections to chapter 81.80 RCW; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. A new section is added to chapter 81.80 RCW to read as follows:

(1) It is unlawful for a motor vehicle transporting recovered materials to perform a transportation service for compensation upon the public highways of this state without first having received a permit from the commission. The permits shall be granted upon a finding that the motor carrier is fit, willing, and able to provide transportation of recovered materials, and upon payment of the appropriate filing fee authorized by this chapter for other applications for operating authority, including payment of the annual regulatory fee imposed by RCW 81.80.320. The carriers are subject to the safety of operations and insurance requirements of the commission, but are not subject to rate regulation by the commission.

(2) The provisions of this section apply to motor vehicles when:

(a) Transporting recovered materials from a site generating ten thousand or more tons of recovered materials per year to a reprocessing facility or an end-use manufacturing site;

(b) Transporting recovered materials from a reprocessing facility to another reprocessing facility or to an end-use manufacturing site; or

(c) Transporting recovered mixed waste paper from a reprocessing facility to an energy recovery facility.

(3) For the purposes of this section, the following definitions shall apply:

(a) "Recovered materials" means those commodities collected for recycling or reuse, such as papers, glass, plastics, used wood, metals, yard waste, used oil, and tires, that if not collected for recycling would otherwise be destined for disposal or incineration. "Recovered materials" shall not include any wood waste or wood byproduct generated from a logging, milling, or chipping activity;

(b) "Reprocessing facility" means a business registered under chapter 82.32 RCW or a nonprofit corporation identified under chapter 24.03 RCW

that accepts or purchases recovered materials and prepares those materials for resale;

(c) "Mixed waste paper" means assorted low-value grades of paper that have not been separated into individual grades of paper at the point of collection; and

(d) "Energy recovery facility" means a facility designed to burn mixed waste paper as a fuel, except that such term does not include mass burn incinerators.

NEW SECTION. Sec. 2. (1) The department of trade and economic development, in conjunction with the utilities and transportation commission and the department of ecology, shall evaluate the effect of exempting motor vehicles transporting recovered materials from rate regulation as provided under section 1 of this act. The evaluation shall, at a minimum, describe the effect of such exemption on:

(a) The cost and timeliness of transporting recovered materials within the state;

(b) The volume of recovered materials transported within the state;

(c) The number of safety violations and traffic accidents related to transporting recovered materials within the state; and

(d) The availability of service related to transporting recovered materials from rural areas of the state.

(2) The department shall report the results of its evaluation to the appropriate standing committees of the legislature by October 1, 1993.

(3) The commission shall adopt rules requiring persons transporting recovered materials to submit information required under RCW 70.95.280. In adopting such rules, the commission shall include procedures to ensure the confidentiality of proprietary information.

NEW SECTION. Sec. 3. A new section is added to chapter 81.80 RCW to read as follows:

Nothing in this act shall be construed as changing the provisions of RCW 81.77.010(8), nor shall this act be construed as allowing any entity, other than a solid waste collection company authorized by the commission or an entity collecting solid waste from a city or town under the provisions of chapter 35.21 or 35A.21 RCW, to collect solid waste which may incidentally contain recyclable materials.

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

Passed the Senate March 6, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 124

[Substitute House Bill No. 2296]

AGRICULTURE EQUIPMENT—BUSINESS RELATIONS BETWEEN
MANUFACTURERS AND DEALERS

AN ACT Relating to business relationships between manufacturers and distributors of agriculture equipment and independent retail dealers; adding new sections to chapter 19.98 RCW; and providing an effective date.

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

NEW SECTION. Sec. 1. The legislature of this state finds that the retail distribution and sales of agricultural equipment, utilizing independent retail business operating under agreements with the manufacturers and distributors, vitally affects the general economy of the state, public interests, and public welfare and that it is necessary to regulate the business relations between the independent dealers and the equipment manufacturers, wholesalers, and distributors.

NEW SECTION. Sec. 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout sections 1 through 7 of this act:

(1) "Equipment" means machinery consisting of a framework, various fixed and moving parts, driven by an internal combustion engine, and all other implements associated with this machinery that are designed for or adapted and used for agriculture, horticulture, livestock, or grazing use.

(2) "Equipment dealer" or "equipment dealership" means any person, partnership, corporation, association, or other form of business enterprise, primarily engaged in retail sale or service of equipment in this state, pursuant to any oral or written agreement for a definite or indefinite period of time in which there is a continuing commercial relationship in the marketing of the equipment or related services, but does not include dealers covered by chapter 46.70 or 46.94 RCW.

(3) "Supplier" means the manufacturer, wholesaler, or distributor of the equipment to be sold by the equipment dealer.

(4) "Dealer agreement" means a contract or agreement, either expressed or implied, whether oral or written, between a supplier and an equipment dealer, by which the equipment dealer is granted the right to sell, distribute, or service the supplier's equipment where there is a continuing commercial relationship between the supplier and the equipment dealer.

(5) "Continuing commercial relationship" means any relationship in which the equipment dealer has been granted the right to sell or service equipment manufactured by supplier.

(6) "Good cause" means failure by an equipment dealer to substantially comply with essential and reasonable requirements imposed upon the equipment dealer by the dealer agreement, provided such requirements are

not different from those requirements imposed on other similarly situated equipment dealers in the state either by their terms or in the manner of their enforcement.

NEW SECTION. Sec. 3. It shall be a violation of this chapter for a supplier to:

(1) Require or attempt to require any equipment dealer to order or accept delivery of any equipment or parts or any equipment with special features or accessories not included in the base list price of such equipment as publicly advertised by the supplier which the equipment dealer has not voluntarily ordered;

(2) Require or attempt to require any equipment dealer to enter into any agreement, whether written or oral, supplementary to an existing dealer agreement with the supplier, unless such supplementary agreement is imposed on other similarly situated dealers in the state;

(3) Refuse to deliver in reasonable quantities and within a reasonable time after receipt of the equipment dealer's order, to any equipment dealer having a dealer agreement for the retail sale of new equipment sold or distributed by the supplier, equipment covered by the dealer agreement specifically advertised or represented by the supplier to be available for immediate delivery. However, the failure to deliver any such equipment shall not be considered a violation of this chapter when deliveries are based on prior ordering histories, the priority given to the sequence in which the orders are received, or manufacturing schedules or if the failure is due to prudent and reasonable restriction on extension of credit by the supplier to the equipment dealer, an act of God, work stoppage or delay due to a strike or labor difficulty, a bona fide shortage of materials, freight embargo, or other cause over which the supplier has no control;

(4) Terminate, cancel, or fail to renew the dealer agreement of any equipment dealer or substantially change the equipment dealer's competitive circumstances, attempt to terminate or cancel, or threaten to not renew the dealer agreement or to substantially change the competitive circumstances without good cause;

(5) Condition the renewal, continuation, or extension of a dealer agreement on the equipment dealer's substantial renovation of the equipment dealer's place of business or on the construction, purchase, acquisition, or rental of a new place of business by the equipment dealer unless: The supplier has advised the equipment dealer in writing of its demand for such renovation, construction, purchase, acquisition, or rental within a reasonable time prior to the effective date of the proposed date of renewal or extensions, but in no case less than one year; the supplier demonstrates the need for such change in the place of business and the reasonableness of the demand with respect to marketing and servicing the supplier's product and any economic conditions existing at the time in the dealer's trade area; and

the equipment dealer does not make a good faith effort to complete the construction or renovation plans within one year;

(6) Discriminate in the prices charged for equipment of like grade and quality sold by the supplier to similarly situated dealers in this state. This subsection does not prevent the use of differentials which make only due allowance for differences in the cost of manufacture, sale, or delivery resulting from the differing methods or quantities in which such commodities are sold or delivered: PROVIDED, That nothing shall prevent a seller from offering a lower price in order to meet an equally low price of a competitor, or the services or facilities furnished by a competitor;

(7) Unreasonably withhold consent for an equipment dealer to change the capital structure of the equipment dealership or the means by which it is financed: PROVIDED, That the equipment dealer meets the reasonable capital requirements of the manufacturer;

(8) Prevent, by contract or otherwise, any equipment dealer or any officer, member, partner, or stockholder of any equipment dealer from selling or transferring any part of the interest in the equipment dealership of any of them to any other person or persons or party or parties. However, no equipment dealer, officer, partner, member, or stockholder shall have the right to sell, transfer, or assign the equipment dealership or power of management or control thereunder without the written consent of the supplier. Such consent shall not be unreasonably withheld if the person or persons or party or parties meets the reasonable financial, business experience, and character standards of the supplier;

(9) Require an equipment dealer to assent to a release, assignment, novation, waiver, or estoppel that would relieve any person from liability imposed by this chapter; or

(10)(a) Unreasonably withhold consent, in the event of the death of the equipment dealer or the principal owner of the equipment dealership, to the transfer of the equipment dealer's interest in the equipment dealership to a member or members of the family of the equipment dealer, the principal owner of the equipment dealership, or to another qualified individual if the family member or other qualified individual meets the reasonable financial, business experience, and character standards required by the supplier. Should a supplier determine that the designated family member or other qualified individual does not meet those reasonable standards, it shall provide the equipment dealer with written notice of its objection and specific reasons for withholding its consent. A supplier shall have sixty days to consider an equipment dealer's request to make a transfer to a family member or other qualified individual. If the family member or other qualified individual reasonably satisfies the supplier's objections within sixty days, the supplier shall approve the transfer. As used in this section, "family" includes a spouse, parents, siblings, children, stepchildren, sons-in-law, daughters-in-law, and lineal descendants, including those by adoption, of

the equipment dealer or principal owner of the equipment dealership. Nothing in this section shall entitle a family member or other qualified individual of a deceased dealer or principal owner of the equipment dealership to continue to operate the dealership without the consent of the supplier.

(b) If a supplier and equipment dealer have duly executed an agreement concerning succession rights prior to the equipment dealer's death and the agreement has not been revoked, the agreement shall be observed even if it designates someone other than the surviving spouse or heirs of the decedent as the successor.

NEW SECTION. Sec. 4. (1) Except where a grounds for termination or nonrenewal of a dealer agreement or a substantial change in an equipment dealer's competitive circumstances are contained in subsection (2) (a), (b), (c), (d), (e), or (f) of this section, a supplier shall give an equipment dealer ninety days' written notice of the supplier's intent to terminate, cancel, or not renew a dealer agreement or substantially change the equipment dealer's competitive circumstances. The notice shall state all reasons constituting good cause for termination, cancellation, or nonrenewal and shall provide, except for termination pursuant to subsection (2) (a), (b), (c), (d), or (e) of this section, that the equipment dealer has sixty days in which to cure any claimed deficiency. If the deficiency is rectified within sixty days, the notice shall be void. The contractual terms of the dealer agreement shall not expire or the equipment dealer's competitive circumstances shall not be substantially changed without the written consent of the equipment dealer prior to the expiration of at least ninety days following such notice.

(2) As used in sections 1 through 7 of this act, a termination by a supplier of a dealer agreement shall be with good cause when the equipment dealer:

(a) Has transferred a controlling ownership interest in the equipment dealership without the supplier's consent;

(b) Has made a material misrepresentation to the supplier;

(c) Has filed a voluntary petition in bankruptcy or has had an involuntary petition in bankruptcy filed against the equipment dealer which has not been discharged within sixty days after the filing, is in default under the provisions of a security agreement in effect with the supplier, or is insolvent or in receivership;

(d) Has been convicted of a crime, punishable for a term of imprisonment for one year or more;

(e) Has failed to operate in the normal course of business for ten consecutive business days or has terminated the business;

(f) Has relocated the equipment dealer's place of business without supplier's consent;

(g) Has consistently engaged in business practices that are detrimental to the consumer or supplier by way of excessive pricing, misleading advertising, or failure to provide service and replacement parts or perform warranty obligations;

(h) Has inadequately represented the supplier over a measured period causing lack of performance in sales, service, or warranty areas and failed to achieve market penetration at levels consistent with similarly situated equipment dealerships in the state based on available record information;

(i) Has consistently failed to meet building and housekeeping requirements or failed to provide adequate sales, service, or parts personnel commensurate with the dealer agreement;

(j) Has consistently failed to comply with the applicable licensing laws pertaining to the products and services being represented for and on supplier's behalf; or

(k) Has consistently failed to comply with the terms of the dealer agreement.

NEW SECTION. Sec. 5. Any equipment dealer may bring an action against a supplier in any court of competent jurisdiction for damages sustained by the equipment dealer as a consequence of the supplier's violation including requiring the supplier to repurchase at fair market value any data processing hardware and specialized repair tools and equipment previously purchased pursuant to requirements of the supplier, compensation for any loss of business, and the actual costs of the action, including reasonable attorneys' fees. The equipment dealer may also be granted injunctive relief against unlawful termination, cancellation, nonrenewal, or substantial change in competitive circumstances. The remedies set forth in this action shall not be deemed exclusive and shall be in addition to any other remedies permitted by law. Nothing in this section is intended to prevent any court from awarding to the supplier actual costs of the action, including reasonable attorney's fees if the action is deemed frivolous.

NEW SECTION. Sec. 6. The obligations of any supplier under this chapter are applied to any successor in interest or assignee of the supplier. A successor in interest includes any purchaser of assets or stock, any surviving corporation resulting from merger or liquidation, and any receiver or any trustee of the original supplier.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. Sections 1 through 7 of this act are each added to chapter 19.98 RCW.

NEW SECTION. Sec. 9. This act shall take effect July 1, 1990, and shall apply to all dealer agreements then in effect that have no expiration

date and are a continuing agreement and to all other dealer agreements entered into or renewed on or after July 1, 1990.

Passed the House March 5, 1990.

Passed the Senate February 27, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 125

[Substitute House Bill No. 2858]

LIQUOR MANUFACTURERS, IMPORTERS, AND WHOLESALERS—BUSINESS ENTERTAINMENT PRACTICES

AN ACT Relating to authorized business entertainment practices by liquor manufacturers, importers, or wholesalers; adding new sections to chapter 66.28 RCW; and providing an expiration date.

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

NEW SECTION. Sec. 1. A new section is added to chapter 66.28 RCW to read as follows:

A liquor manufacturer, importer, or wholesaler may provide to licensed retailers and their employees food and beverages for consumption at a meeting at which the primary purpose is the discussion of business, and may provide local ground transportation to and from such meetings. The value of the food, beverage, or transportation provided under this section shall not be considered the advancement of moneys or moneys' worth within the meaning of RCW 66.28.010, nor shall it be considered the giving away of liquor within the meaning of RCW 68.28.040. The board may adopt rules for the implementation of this section.

NEW SECTION. Sec. 2. A new section is added to chapter 66.28 RCW to read as follows:

A liquor manufacturer, importer, or wholesaler may provide to licensed retailers and their employees tickets or admission fees for athletic events or other forms of entertainment occurring within the state of Washington, if the manufacturer, importer, wholesaler, or any of their employees accompanies the licensed retailer or its employees to the event. A liquor manufacturer, importer, or wholesaler may also provide to licensed retailers and their employees food and beverages for consumption at such events, and local ground transportation to and from activities allowed under this section. The value of the food, beverage, transportation, or admission to events provided under this section shall not be considered the advancement of moneys or moneys' worth within the meaning of RCW 66.28.010, nor shall it be considered the giving away of liquor within the meaning of RCW 68.28.040. The board may adopt rules for the implementation of this section.

NEW SECTION. Sec. 3. This act shall expire June 30, 1995.

Passed the House February 9, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 126

[House Bill No. 1890]

LEGISLATIVE DISTRICTS

AN ACT Relating to redistricting; and amending RCW 44.05.090.

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

Sec. 1. Section 9, chapter 16, Laws of 1983 and RCW 44.05.090 are each amended to read as follows:

In the redistricting plan:

(1) Districts shall have a population as nearly equal as is practicable, excluding nonresident military personnel, based on the population reported in the federal decennial census.

(2) To the extent consistent with subsection (1) of this section the commission plan should, insofar as practical, accomplish the following:

(a) District lines should be drawn so as to coincide with the boundaries of local political subdivisions and areas recognized as communities of interest. The number of counties and municipalities divided among more than one district should be as small as possible;

(b) Districts should be composed of convenient, contiguous, and compact territory. Land areas may be deemed contiguous if they share a common land border or are connected by a ferry, highway, bridge, or tunnel. Areas separated by geographical boundaries or artificial barriers that prevent transportation within a district should not be deemed contiguous; and

(c) Whenever practicable, a precinct shall be wholly within a single legislative district.

~~(3) ((In accordance with the provisions of Article II, section 6 of the state Constitution, representative districts shall be uniformly established so that if a senatorial district is divided in the formation of representative districts, all senatorial districts shall be so divided.~~

~~(4)) The commission's plan and any plan adopted by the supreme court under RCW 44.05.100(4) shall ~~((not))~~ provide for ~~((a number of legislative districts different than that established by the legislature))~~ forty-nine legislative districts.~~

(4) The house of representatives shall consist of ninety-eight members, two of whom shall be elected from and run at large within each legislative district. The senate shall consist of forty-nine members, one of whom shall be elected from each legislative district.

(5) The commission shall exercise its powers to provide fair and effective representation and to encourage electoral competition. The commission's plan shall not be drawn purposely to favor or discriminate against any political party or group.

Passed the House March 7, 1990.

Passed the Senate March 6, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 127

[Senate Bill No. 6577]

RECYCLING MARKETS COMMITTEE

AN ACT Relating to the committee for recycling markets; and amending RCW 43.31.556.

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

Sec. 1. Section 102, chapter 431, Laws of 1989 and RCW 43.31.556 are each amended to read as follows:

The committee may enter into contracts to assist in its responsibilities(~~(, provided that the state funds for such contracts are matched by at least an equal amount from private sources)~~). The committee shall endeavor to ensure that state funds are matched by private funds or in-kind services. The committee shall provide a report to the legislature on or before January 2, 1990, and a final report on or before November 30, 1990(~~(, and its duties shall be terminated upon delivery of the final report)~~). The committee shall terminate on June 30, 1991.

Passed the Senate March 5, 1990.

Passed the House February 26, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 128

[Substitute Senate Bill No. 6698]

SOLID FUEL BURNING DEVICES—LIMITS ON USE

AN ACT Relating to limitations on the use of solid fuel burning devices; extending the impaired air quality exemption for certified solid fuel burning devices; and authorizing local air quality authorities to impose fees on the sale of new solid fuel burning devices; amending RCW 70.94.473, 70.94.477, 70.94.715, 70.94.483, and 70.94.480; and adding a new section to chapter 70.94 RCW.

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

****NEW SECTION. Sec. 1. A new section is added to chapter 70.94 RCW to read as follows:***

The joint select task force on clean air established by chapter (En-grossed Substitute House Bill No. 2277), Laws of 1990, has the authority, in addition to all other powers granted the task force, to:

- (1) Review the implementation of this act;*
- (2) Review and make recommendations regarding state policies regarding the sale and use of residential solid fuel burning devices; and*
- (3) Review and recommend strategies to further advance technology to reduce contaminants from residential solid fuel burning devices, including but not limited to pellet fuel burning devices.*

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

Sec. 2. Section 6, chapter 405, Laws of 1987 and RCW 70.94.473 are each amended to read as follows:

(1) Any person in a residence or commercial establishment which has an adequate source of heat without burning wood shall:

~~((+))~~ (a) Not burn wood in any solid fuel ~~((heating))~~ burning device whenever the department has determined under RCW 70.94.715 that any air pollution episode exists in that area;

~~((2))~~ (b) Not burn wood in any solid fuel ~~((heating))~~ burning device~~(:)~~ except ~~((wood-stoves))~~ those which meet the standards set forth in RCW 70.94.457, or a pellet stove either certified or issued an exemption certificate by the United States environmental protection agency in accordance with title 40, Part 60 of the code of federal regulations, in the geographical area and for the period of time that a first stage of impaired air quality has been determined, by the department or any authority, for that area. ((For the purposes of this section, impaired air quality shall mean air contaminant concentrations nearing unhealthful levels concurrent with meteorological conditions that are conducive to an accumulation of air contamination. If, after July 1, 1990, the department determines that there is quantitative evidence that wood stoves meeting the requirements of RCW 70.94.457 are contributing to impaired air quality, the department or any authority may prohibit burning of all solid fuel burning devices as provided by this section including those meeting the requirements of RCW 70.94-457.)) A first stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of seventy-five micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average; and

(c) Not burn wood in any solid fuel burning device, including those which meet the standards set forth in RCW 70.94.457, in a geographical area and for the period of time that a second stage of impaired air quality has been determined by the department or any authority, for that area. A second stage of impaired air quality is reached when particulates ten microns and smaller in diameter are at an ambient level of one hundred five micrograms per cubic meter measured on a twenty-four hour average.

(2) When a local air authority exercises the limitation on solid fuel burning devices specified under RCW 70.94.477(2), a single stage of impaired air quality applies in the geographical area defined by the authority in accordance with RCW 70.94.477(2) and is reached when particulates ten microns and smaller in diameter are at an ambient level of ninety micrograms per cubic meter measured on a twenty-four hour average or when carbon monoxide is at an ambient level of eight parts of contaminant per million parts of air by volume measured on an eight-hour average.

When this single stage of impaired air quality is reached, no person in a residence or commercial establishment which has an adequate source of heat without burning wood shall burn wood in any solid fuel burning device, including those which meet the standards set forth in RCW 70.94.457.

Sec. 3. Section 9, chapter 405, Laws of 1987 and RCW 70.94.477 are each amended to read as follows:

(1) Unless allowed by rule, under chapter 34.05 RCW, a person shall not cause or allow any of the following materials to be burned in any residential solid fuel burning device:

- ((1)) (a) Garbage;
- ((2)) (b) Treated wood;
- ((3)) (c) Plastics;
- ((4)) (d) Rubber products;
- ((5)) (e) Animals;
- ((6)) (f) Asphaltic products;
- ((7)) (g) Waste petroleum products;
- ((8)) (h) Paints; or

((9)) (i) Any substance, other than properly seasoned fuel wood, which normally emits dense smoke or obnoxious odors.

(2) On or after July 1, 1995, a local authority may geographically limit the use of solid fuel burning devices, except fireplaces as defined in RCW 70.94.453(3), wood stoves meeting the standards set forth in RCW 70.94.457 or pellet stoves issued an exemption certificate by the United States environmental protection agency in accordance with Title 40, part 60 of the code of federal regulations. An authority shall allow an exemption from this subsection for low-income persons who reside in a geographical area affected by this subsection. In the exercise of this limitation, a local authority shall consider the following factors:

(a) The contribution of solid fuel burning devices that do not meet the standards set forth in RCW 70.94.457 to nonattainment of national ambient air quality standards;

(b) The population density of geographical areas within the local authority's jurisdiction giving greater consideration to urbanized areas; and

(c) The public health effects of use of solid fuel burning devices which do not meet the standards set forth in RCW 70.94.457.

Sec. 4. Section 2, chapter 194, Laws of 1971 ex. sess. and RCW 70.94.715 are each amended to read as follows:

The department of ecology is hereby authorized to develop an episode avoidance plan providing for the phased reduction of emissions wherever and whenever an air pollution episode is forecast. Such an episode avoidance plan shall conform with any applicable federal standards and shall be effective state-wide. The episode avoidance plan may be implemented on an area basis in accordance with the occurrence of air pollution episodes in any given area.

The department of ecology may delegate authority to adopt source emission reduction plans and authority to implement all stages of occurrence up to and including the warning stage, and all intermediate stages up to the warning stage, in any area of the state, to the air pollution control authority with jurisdiction therein.

The episode avoidance plan, which shall be established by regulation in accordance with chapter 34.05 RCW, shall include, but not be limited to the following:

(1) The designation of episode criteria and stages, the occurrence of which will require the carrying out of preplanned episode avoidance procedures. The stages of occurrence shall be (a) forecast, (b) alert, (c) warning, (d) emergency, and such intermediate stages as the department shall designate. "Forecast" means the presence of meteorological conditions that are conducive to accumulation of air contaminants and is the first stage of an episode. The department shall not call a forecast episode prior to the department or an authority calling a first stage impaired air quality condition as provided by RCW 70.94.473(1)(b) or calling a single-stage impaired air quality condition as provided by RCW 70.94.473(2). "Alert" means concentration of air contaminants at levels at which short-term health effects may occur, and is the second stage of an episode. "Warning" means concentrations are continuing to degrade, contaminant concentrations have reached a level which, if maintained, can result in damage to health, and additional control actions are needed and is the third level of an episode. "Emergency" means the air quality is posing an imminent and substantial endangerment to public health and is the fourth level of an episode;

(2) The requirement that persons responsible for the operation of air contaminant sources prepare and obtain approval from the director of source emission reduction plans, consistent with good operating practice and safe operating procedures, for reducing emissions during designated episode stages;

(3) Provision for the director of the department of ecology or his authorized representative, or the air pollution control officer if implementation has been delegated, on the satisfaction of applicable criteria, to declare and terminate the forecast, alert, warning and all intermediate stages, up to the

warning episode stage, such declarations constituting orders for action in accordance with applicable source emission reduction plans;

(4) Provision for the governor to declare and terminate the emergency stage and all intermediate stages above the warning episode stage, such declarations constituting orders in accordance with applicable source emission reduction plans;

(5) Provisions for enforcement by state and local police, personnel of the departments of ecology and social and health services, and personnel of local air pollution control agencies; and

(6) Provisions for reduction or discontinuance of emissions immediately, consistent with good operating practice and safe operating procedures, under an air pollution emergency as provided in RCW 70.94.720.

Source emission reduction plans shall be considered orders of the department and shall be subject to appeal to the pollution control hearings board according to the procedure in chapter 43.21B RCW.

Sec. 5. Section 10, chapter 405, Laws of 1987 and RCW 70.94.483 are each amended to read as follows:

(1) The wood stove education and enforcement account is hereby created in the general fund. Money placed in the account shall include all money received under subsection (2) of this section and any other money appropriated by the legislature. Money in the account shall be spent for the purposes of the wood stove education program established under RCW 70.94.480 and for enforcement of the wood stove program, and shall be subject to legislative appropriation.

(2) The department of ecology, with the advice of the advisory committee, shall set a flat fee, not to exceed ~~((five))~~ fifteen dollars, on the retail sale, as defined in RCW 82.04.050, of each solid fuel burning device, excepting masonry fireplaces, after January 1, 1988. The fee shall be imposed upon the consumer and shall not be subject to the retail sales tax provisions of chapters 82.08 and 82.12 RCW. The fee may be adjusted annually above ~~((five))~~ fifteen dollars according to changes in the consumer price index after January 1, 1989. The fee shall be collected by the department of revenue in conjunction with the retail sales tax under chapter 82.08 RCW. If the seller fails to collect the fee herein imposed or fails to remit the fee to the department of revenue in the manner prescribed in chapter 82.08 RCW, the seller shall be personally liable to the state for the amount of the fee. The collection provisions of chapter 82.32 RCW shall apply. The department of revenue shall ~~((transmit the moneys to))~~ deposit fees collected under this section in the wood stove education and enforcement account.

Sec. 6. Section 3, chapter 405, Laws of 1987 and RCW 70.94.480 are each amended to read as follows:

(1) The department of ecology shall establish a program to educate wood stove dealers and the public about:

~~((+))~~ (a) The effects of wood stove emissions on health and air quality;

~~((2))~~ (b) Methods of achieving better efficiency and emission performance from wood stoves;

~~((3))~~ (c) Wood stoves that have been approved by the department;

~~((4))~~ (d) The benefits of replacing inefficient wood stoves with stoves approved under RCW 70.94.457.

(2) Persons selling new wood stoves shall distribute and verbally explain educational materials describing when a stove can and cannot be legally used to customers purchasing new wood stoves.

Passed the Senate March 5, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 21, 1990, with the exception of certain items which were vetoed.

Filed in Office of Secretary of State March 21, 1990.

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

"I am returning herewith, without my approval as to section 1, Substitute Senate Bill No. 6698, entitled:

"AN ACT Relating to limitations on the use of solid fuel burning devices."

Section 1 of this bill makes reference to Engrossed Substitute House Bill No. 2277, which would have set up a joint select task force on clean air. Engrossed Substitute House Bill No. 2277 did not pass the Legislature. Section 1 of Substitute Senate Bill No. 6698 charges the task force with reviewing implementation of this bill. Since the task force does not exist, I have vetoed section 1.

With the exception of section 1, Substitute Senate Bill No. 6698 is approved."

CHAPTER 129

[House Bill No. 2288]

PUBLIC WORKS PROJECTS—APPROPRIATIONS

AN ACT Relating to appropriations for projects recommended by the public works board; creating a new section; and declaring an emergency.

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

NEW SECTION. Sec. 1. Pursuant to chapter 43.155 RCW, the following project loans recommended by the public works board are authorized to be made with funds previously appropriated from the public works assistance account:

(1) City of Airway Heights—Road project—Reconstruction of existing residential and light commercial access roadways \$900,000

(2) City of Anacortes—Sewer project—Replace 4,800 L.F. of deteriorated sewer pipes \$308,700

(3) City of Battle Ground—Sanitary sewer project—Converting the existing aerobic lagoon into a detention/equalization basin, construction of a triplex pumping station, and 49,000 feet of transmission line . . . \$500,000

- (4) City of Bellevue—Storm sewer project—Correct erosion problems and stabilize existing stream channels \$1,166,040
- (5) City of Blaine—Sanitary sewer project—Replace sewer mains and service laterals, and construct a separate storm sewer system within a 90-acre target area \$1,235,287
- (6) City of Burlington—Capital improvement plan—To include bridges, roads, sanitary sewer, and storm sewer systems. \$15,000
- (7) City of Carnation—Capital improvement plan—To include bridges, roads, water, sanitary sewer, and storm sewer systems \$15,000
- (8) City of Chehalis—Sanitary sewer project—Replacement of 28,794 feet of main line sewers \$1,278,533
- (9) City of Clarkston—Capital improvement plan—To include roads, sanitary sewer, and storm sewer systems \$15,000
- (10) City of Cle Elum—Water project—Replace deteriorated water lines and implement leak detection program \$225,000
- (11) Federal Way Water and Sewer District—Water project—Refurbish the 305th Street water storage tank \$282,000
- (12) Freeland Water District—Water project—Construction of a reservoir, installation of chlorination equipment, and a shelter for the equipment \$89,470
- (13) Freeland Water District—Capital improvement plan—Project development for district's water system needs \$6,000
- (14) City of Ione—Capital improvement plan—Development of a comprehensive sanitary sewer strategy. \$11,250
- (15) Jefferson County—Road project—Upgrade of the Beaver Valley Road \$491,900
- (16) City of Kennewick—Road project—Reconstruction of South Washington Street, replace an old steel water line, and sanitary sewer improvements \$1,500,000
- (17) King County Water District 20—Water project—Replace 22,000 L.F. of deteriorating asbestos-cement pipe \$1,002,560
- (18) King County Water District 75—Water project—Replace leaking water mains, replace and install 39 fire hydrants, and install one additional pressure-reducing station \$980,000
- (19) King County Water District 107—Water project—Replace 35,300 feet of distribution lines \$913,300
- (20) Kittitas County Water District 3—Water project—Construction of a new storage tank, 8,000 feet of water mains, and a water filtration unit \$106,395
- (21) City of Longview—Sanitary sewer project—Establish flow monitoring, replace 30,000 feet of sewer mains, construct and improve manholes, and replace side sewers \$1,273,478

- (22) City of Monroe—Road project—Widen a portion of 179th Street and install a storm sewer main line \$542,735
- (23) City of Moses Lake—Sanitary sewer project—Replace existing deteriorated pipes \$482,000
- (24) City of Moses Lake—Water project—Provide a new source of water to the Larson satellite system \$1,400,000
- (25) City of Mukilteo—Storm sewer project—Improve and construct culverts, catch basins, piping, and other drainage system improvements \$154,000
- (26) Northeast Lake Washington Sewer and Water District—Water project—Replace 56 miles of leaky water mains \$1,500,000
- (27) City of Olympia—Sewer project—Rehabilitate Madison Street sub basins \$326,025
- (28) City of Olympia—Water project—Construction of two new wells to increase the water supply \$432,000
- (29) Olympic View Water and Sewer District—Capital improvement plan—Development of the district's water and sewer systems needs \$15,000
- (30) Olympic View Water and Sewer District—Water project—Replace 40,000 feet of steel water pipes \$906,745
- (31) City of Prosser—Water project—Construct a water filtration plant \$868,500
- (32) Town of Reardan—Water project—Drill a new well and construct 2.7 miles of water transmission line \$306,165
- (33) City of Redmond—Road project—Improve and add to West Lake Sammamish Parkway, construct two new bridges and street improvements \$1,000,000
- (34) Rose Hill Water District—Water project—Replace 42,000 feet of steel and asbestos concrete water mains \$1,500,000
- (35) City of Seattle—Road project—Replace and widen four blocks of pavement, drainage and sidewalk improvements, and street lighting upgrades \$873,000
- (36) City of Seattle—Bridge project—Repair and strengthen approximately 25 crossbeams in the Fautleroy Expressway \$1,126,800
- (37) City of Sedro-Woolley—Capital improvement plan—To include roads, water, sanitary sewer, and storm sewer systems \$15,000
- (38) City of Selah—Capital improvement plan—To include roads, water, sanitary sewer, and storm sewer systems \$15,000
- (39) Snohomish County—Bridge project—Replace 14 bridges throughout the county \$1,218,000
- (40) Snohomish County—Storm sewer project—Construction of a retention pond on the North Creek Basin \$665,000
- (41) City of Spokane—Sanitary sewer project—Construction of a sewer line, and extending a water line \$340,900

(42) City of Spokane—Water project—Externally sealing and internally lining a water storage reservoir	\$586,377
(43) Stevens County Public Utility District 1—Sanitary sewer project—Install a sewer system for the Deer Lake area	\$1,500,000
(44) Stevens County Public Utility District 1—Water project—Improvements to the Jump Off Joe Water System	\$67,950
(45) Town of Tonasket—Capital improvement plan—To include bridges, roads, water, sanitary sewer, and storm sewer systems	\$15,000
(46) City of Toppenish—Water project—Replace a well, a well pump-house, a reservoir, and telemetering equipment	\$823,500
(47) City of Toppenish—Capital improvement plan—To include roads, sanitary sewer, and storm sewer systems	\$15,000
(48) City of Tumwater—Sanitary sewer project—Replacement of an undersized sanitary sewer interceptor	\$1,375,841
(49) City of Union Gap—Road project—Installing catch basins, replace northern half of a street, and overlaying the southern half of a street	\$84,000
(50) City of Vancouver—Road project—Improve and widen a narrow section of street	\$1,000,000
(51) City of Washougal—Water project—Construction of a 1 million gallon reservoir and a 100,000 gallon intermediate level reservoir	\$398,874
(52) City of White Salmon—Water project—Construction of a new reservoir, booster pump relocation and installation of new water pipes	\$258,128
(53) City of Woodland—Sanitary sewer project—Adding a new Rotating Biological Contractor, a new sludge drying bed, and updating the aeration equipment for the sludge digester	\$388,620
(54) City of Yakima—Road project—Overlay approximately 24,000 square yards of deteriorated street, remove railroad tracks, replace 3,500 feet of curb, gutters, sidewalk, and lighting improvements	\$803,157
Emergency Public Works Loans—As authorized by RCW 43.155.065	\$750,000
Total approved list	\$34,068,230

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

Passed the House February 5, 1990.

Passed the Senate March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 130

[Senate Bill No. 6564]

COMMERCIAL FISHERS—POOLING OF FUNDS—EXCLUSION FROM DEFINITION OF INSURER

AN ACT Relating to the application of the insurance code to the pooling of funds to pay claims of commercial fishers; and amending RCW 48.01.050.

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

Sec. 1. Section .01.05, chapter 79, Laws of 1947 as last amended by section 9, chapter 277, Laws of 1985 and RCW 48.01.050 are each amended to read as follows:

"Insurer" as used in this code includes every person engaged in the business of making contracts of insurance, other than a fraternal benefit society. A reciprocal or interinsurance exchange is an "insurer" as used in this code. Two or more hospitals, as defined in RCW 70.39.020(3), which join and organize as a mutual corporation pursuant to chapter 24.06 RCW for the purpose of insuring or self-insuring against liability claims, including medical liability, through a contributing trust fund shall not be deemed an "insurer" under this code. Two or more local governmental entities, as defined in RCW 48.62.020, which pursuant to RCW 48.62.040, 48.62.035, or any other provision of law join together and organize to form an organization for the purpose of jointly self-insuring or self-funding shall not be deemed an "insurer" under this code. Two or more persons engaged in the business of commercial fishing who enter into an arrangement with other such persons for the pooling of funds to pay claims or losses arising out of loss or damage to a vessel or machinery used in the business of commercial fishing and owned by a member of the pool shall not be deemed an "insurer" under this code.

Passed the Senate February 8, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 131

[Senate Bill No. 5431]

LEASEHOLD EXCISE TAX

AN ACT Relating to the leasehold excise tax; and amending RCW 35.21.755.

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

Sec. 1. Section 7, chapter 37, Laws of 1974 ex. sess. as last amended by section 1, chapter 282, Laws of 1987 and RCW 35.21.755 are each amended to read as follows:

(1) A public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 shall receive the same immunity or exemption from taxation as that of the city, town, or county creating the same: **PROVIDED**, That, except for (a) any property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites or (b) any property owned or operated by a public corporation that is used primarily for low-income housing, any such public corporation, commission, or authority shall pay to the county treasurer an annual excise tax equal to the amounts which would be paid upon real property and personal property devoted to the purposes of such public corporation, commission, or authority were it in private ownership, and such real property and personal property is acquired and/or operated under RCW 35.21.730 through 35.21.755, and the proceeds of such excise tax shall be allocated by the county treasurer to the various taxing authorities in which such property is situated, in the same manner as though the property were in private ownership: **PROVIDED FURTHER**, That the provisions of chapter 82.29A RCW shall not apply to property within a special review district established by ordinance prior to January 1, 1976, or listed on or which is within a district listed on any federal or state register of historical sites and which is controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, ~~((1976))~~ 1987: **AND PROVIDED FURTHER**, That property within a special review district established by ordinance prior to January 1, 1976, or property which is listed on any federal or state register of historical sites and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660, which was in existence prior to January 1, 1976, shall receive the same immunity or exemption from taxation as if such property had been within a district listed on any such federal or state register of historical sites as of January 1, 1976, and controlled by a public corporation, commission, or authority created pursuant to RCW 35.21.730 or 35.21.660 which was in existence prior to January 1, 1976.

(2) As used in this section:

(a) "Low-income" means a total annual income, adjusted for family size, not exceeding fifty percent of the area median income.

(b) "Area median income" means:

(i) For an area within a standard metropolitan statistical area, the area median income reported by the United States department of housing and urban development for that standard metropolitan statistical area; or

(ii) For an area not within a standard metropolitan statistical area, the county median income reported by the department of community development.

Passed the Senate February 2, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 132

[Substitute Senate Bill No. 6446]

PUBLIC WATER SYSTEMS

AN ACT Relating to planning, design, and operation of public water systems; amending RCW 43.70.130, 70.119A.060, and 80.28.110; adding a new section to chapter 43.20 RCW; adding a new section to Title 80 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 the best interests of the citizens of the state are served if:

- (1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;
- (2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use planning and public health and safety; and
- (3) Existing procedures and processes for water system planning are strengthened and fully implemented by state agencies, local government, and public water systems.

Sec. 2. Section 43.20.010, chapter 8, Laws of 1965 as last amended by section 251, chapter 9, Laws of 1989 1st ex. sess. and RCW 43.70.130 are each amended to read as follows:

The secretary of health shall:

- (1) Exercise all the powers and perform all the duties prescribed by law with respect to public health and vital statistics;
- (2) Investigate and study factors relating to the preservation, promotion, and improvement of the health of the people, the causes of morbidity and mortality, and the effects of the environment and other conditions upon the public health, and report the findings to the state board of health for such action as the board determines is necessary;
- (3) Strictly enforce all laws for the protection of the public health and the improvement of sanitary conditions in the state, and all rules, regulations, and orders of the state board of health;
- (4) Enforce the public health laws of the state and the rules and regulations promulgated by the department or the board of health in local matters, when in its opinion an emergency exists and the local board of health

has failed to act with sufficient promptness or efficiency, or is unable for reasons beyond its control to act, or when no local board has been established, and all expenses so incurred shall be paid upon demand of the secretary of the department of health by the local health department for which such services are rendered, out of moneys accruing to the credit of the municipality or the local health department in the current expense fund of the county;

(5) Investigate outbreaks and epidemics of disease that may occur and advise local health officers as to measures to be taken to prevent and control the same;

(6) Exercise general supervision over the work of all local health departments and establish uniform reporting systems by local health officers to the state department of health;

(7) Have the same authority as local health officers, except that the secretary shall not exercise such authority unless the local health officer fails or is unable to do so, or when in an emergency the safety of the public health demands it, or by agreement with the local health officer or local board of health;

(8) Cause to be made from time to time, personal health and sanitation inspections at state owned or contracted institutions and facilities to determine compliance with sanitary and health care standards as adopted by the department, and require the governing authorities thereof to take such action as will conserve the health of all persons connected therewith, and report the findings to the governor;

(9) Review and approve plans for public water system design, engineering, operation, maintenance, financing, and emergency response, as required under state board of health rules;

(10) Take such measures as the secretary deems necessary in order to promote the public health, to establish or participate in the establishment of health educational or training activities, and to provide funds for and to authorize the attendance and participation in such activities of employees of the state or local health departments and other individuals engaged in programs related to or part of the public health programs of the local health departments or the state department of health. The secretary is also authorized to accept any funds from the federal government or any public or private agency made available for health education training purposes and to conform with such requirements as are necessary in order to receive such funds; and

~~((10))~~ (11) Establish and maintain laboratory facilities and services as necessary to carry out the responsibilities of the department.

NEW SECTION. Sec. 3. A new section is added to chapter 43.20 RCW to read as follows:

(1) The department shall have primary responsibility among state agencies to receive complaints from persons aggrieved by the failure of a

public water system. If the remedy to the complaint is not within the jurisdiction of the department, the department shall refer the complaint to the state or local agency that has the appropriate jurisdiction. The department shall take such steps as are necessary to inform other state agencies of their primary responsibility for such complaints and the implementing procedures.

(2) Each county shall designate a contact person to the department for the purpose of receiving and following up on complaint referrals that are within county jurisdiction. In the absence of any such designation, the county health officer shall be responsible for performing this function.

(3) The department and each county shall establish procedures for providing a reasonable response to complaints received from persons aggrieved by the failure of a public water system.

(4) The department and each county shall use all reasonable efforts to assist customers of public water systems in obtaining a dependable supply of water at all times. The availability of resources and the public health significance of the complaint shall be considered when determining what constitutes a reasonable effort.

(5) The department shall, in consultation with local governments, water utilities, water districts, public utility districts, and other interested parties, develop a booklet or other single document that will provide to members of the public the following information:

(a) A summary of state law regarding the obligations of public water systems in providing drinking water supplies to their customers;

(b) A summary of the activities, including planning, rate setting, and compliance, that are to be performed by both local and state agencies;

(c) The rights of customers of public water systems, including identification of agencies or offices to which they may address the most common complaints regarding the failures or inadequacies of public water systems.

This booklet or document shall be available to members of the public no later than January 1, 1991.

Sec. 4. Section 3, chapter 422, Laws of 1989 and RCW 70.119A.060 are each amended to read as follows:

(1) In order to assure safe and reliable public drinking water and to protect the public health, public water systems shall:

(a) Protect the water sources used for drinking water;

(b) Provide treatment adequate to assure that the public health is protected;

(c) Provide and effectively operate and maintain public water system facilities;

(d) Plan for future growth and assure the availability of safe and reliable drinking water;

(e) Provide the department with the names, addresses, and telephone numbers of the owners, operators, and emergency contact persons for the

system, including any changes to this information, and provide to users the name and twenty-four hour telephone number of an emergency contact person; and

(f) Take whatever investigative or corrective action is necessary to assure that a safe and reliable drinking water supply is continuously available to users.

(2) The department and local health jurisdictions shall carry out the rules and regulations of the state board of health adopted pursuant to RCW 43.20.050(2)(a) and other rules adopted by the department relating to public water systems.

Sec. 5. Section 80.28.110, chapter 14, Laws of 1961 and RCW 80.28-.110 are each amended to read as follows:

Every gas company, electrical company or water company, engaged in the sale and distribution of gas, electricity or water, shall, upon reasonable notice, furnish to all persons and corporations who may apply therefor and be reasonably entitled thereto, suitable facilities for furnishing and furnish all available gas, electricity and water as demanded, except that a water company shall not furnish water contrary to the provisions of water system plans approved under chapter 43.20 or 70.116 RCW.

NEW SECTION. Sec. 6. A new section is added to Title 80 RCW to read as follows:

In determining the rates to be charged by each water company subject to its jurisdiction, the commission may provide for the funding of a reserve account exclusively for the purpose of making capital improvements approved by the department of health as a part of a long-range plan, or required by the department to assure compliance with federal or state drinking water regulations. Expenditures from the fund shall be subject to prior approval by the commission, and shall be treated for rate-making purposes as customer contributions.

NEW SECTION. Sec. 7. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 8. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate February 13, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 133

[Substitute Senate Bill No. 6447]

FAILING PUBLIC WATER SYSTEMS

AN ACT Relating to failing public water systems; amending RCW 36.94.140, 43.70.190, 43.70.200, 43.155.070, 43.155.065, 70.119A.040, and 70.05.070; adding a new section to chapter 8.25 RCW; adding a new section to chapter 43.70 RCW; creating new sections; prescribing penalties; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds the best interests of the citizens of the state are served if:

(1) Customers served by public water systems are assured of an adequate quantity and quality of water supply at reasonable rates;

(2) There is improved coordination between state agencies engaged in water system planning and public health regulation and local governments responsible for land use regulation and public health and safety;

(3) Public water systems in violation of health and safety standards adopted under RCW 43.20.050 remain in operation and continue providing water service providing that public health is not compromised, assuming a suitable replacement purveyor is found and deficiencies are corrected in an expeditious manner consistent with public health and safety; and

(4) The state address, in a systematic and comprehensive fashion, new operating requirements which will be imposed on public water systems under the federal Safe Drinking Water Act.

Sec. 2. Section 14, chapter 72, Laws of 1967 as amended by section 2, chapter 188, Laws of 1975 1st ex. sess. and RCW 36.94.140 are each amended to read as follows:

Every county, in the operation of a system of sewerage and/or water, shall have full jurisdiction and authority to manage, regulate and control it and to fix, alter, regulate and control the rates and charges for the service to those to whom such county service is available, and to levy charges for connection to such system. The rates for availability of service and connection charges so charged must be uniform for the same class of customers or service.

In classifying customers served, service furnished or made available by such system of sewerage and/or water, or the connection charges, the board may consider any or all of the following factors:

(1) The difference in cost of service to the various customers within or without the area;

(2) The difference in cost of maintenance, operation, repair and replacement of the various parts of the systems;

(3) The different character of the service furnished various customers;

(4) The quantity and quality of the sewage and/or water delivered and the time of its delivery;

(5) Capital contributions made to the system or systems, including, but not limited to, assessments; (~~and~~)

(6) The cost of acquiring the system or portions of the system in making system improvements necessary for the public health and safety; and

(7) Any other matters which present a reasonable difference as a ground for distinction.

Such rates shall produce revenues sufficient to take care of the costs of maintenance and operation, revenue bond and warrant interest and principal amortization requirements, and all other charges necessary for the efficient and proper operation of the system.

Sec. 3. Section 5, chapter 102, Laws of 1967 ex. sess. as last amended by section 258, chapter 9, Laws of 1989 1st ex. sess. and RCW 43.70.190 are each amended to read as follows:

The secretary of health or local health officer may bring an action to enjoin a violation or the threatened violation of any of the provisions of the public health laws of this state or any rules or regulation made by the state board of health or the department of health pursuant to said laws, or may bring any legal proceeding authorized by law, including but not limited to the special proceedings authorized in Title 7 RCW, in the superior court in the county in which such violation occurs or is about to occur, or in the superior court of Thurston county. Upon the filing of any action, the court may, upon a showing of an immediate and serious danger to residents constituting an emergency, issue a temporary injunctive order ex parte.

NEW SECTION. Sec. 4. A new section is added to chapter 43.70 RCW 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 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.

Sec. 5. Section 6, chapter 102, Laws of 1967 ex. sess. as last amended by section 259, chapter 9, Laws of 1989 1st ex. sess. and RCW 43.70.200 are each amended to read as follows:

Upon the request of a local health officer, the secretary of health is hereby authorized and empowered to take legal action to enforce the public health laws and rules and regulations of the state board of health or local rules and regulations within the jurisdiction served by the local health department, and may institute any civil legal proceeding authorized by the laws of the state of Washington, including a proceeding under Title 7 RCW.

Sec. 6. Section 12, chapter 446, Laws of 1985 as last amended by section 3, chapter 93, Laws of 1988 and RCW 43.155.070 are each amended to read as follows:

(1) To qualify for loans or pledges under this chapter the board must determine that a local government meets all of the following conditions:

(a) The city or county must be imposing a tax under chapter 82.46 RCW at a rate of at least one-quarter of one percent;

(b) The local government must have developed a long-term plan for financing public works needs; and

(c) The local government must be using all local revenue sources which are reasonably available for funding public works, taking into consideration local employment and economic factors.

(2) The board shall develop a priority process for public works projects as provided in this section. The intent of the priority process is to maximize the value of public works projects accomplished with assistance under this chapter. The board shall attempt to assure a geographical balance in assigning priorities to projects. The board shall consider at least the following factors in assigning a priority to a project:

(a) Whether the local government receiving assistance has experienced severe fiscal distress resulting from natural disaster or emergency public works needs;

(b) Whether the project is critical in nature and would affect the health and safety of a great number of citizens;

(c) The cost of the project compared to the size of the local government and amount of loan money available;

(d) The number of communities served by or funding the project;

(e) Whether the project is located in an area of high unemployment, compared to the average state unemployment; ~~((and))~~

(f) Whether the project is the acquisition, expansion, improvement, or renovation by a local government of a public water system that is in violation of health and safety standards, including the cost of extending existing service to such a system; and

(g) Other criteria that the board considers advisable.

(3) Existing debt or financial obligations of local governments shall not be refinanced under this chapter. Each local government applicant shall provide documentation of attempts to secure additional local or other sources of funding for each public works project for which financial assistance is sought under this chapter.

(4) Before November 1 of each year, the board shall develop and submit to the chairs of the ways and means committees of the senate and house of representatives a description of the emergency loans made under RCW 43.155.065 during the preceding fiscal year and a prioritized list of projects which are recommended for funding by the legislature, including one copy to the staff of each of the committees. The list shall include, but not be limited to, a description of each project and recommended financing, the terms and conditions of the loan or financial guarantee, the local government jurisdiction and unemployment rate, demonstration of the jurisdiction's critical need for the project and documentation of local funds being used to finance the public works project. The list shall also include measures of fiscal capacity for each jurisdiction recommended for financial assistance, compared to authorized limits and state averages, including local government sales taxes; real estate excise taxes; property taxes; and charges for or taxes on sewerage, water, garbage, and other utilities.

(5) The board shall not sign contracts or otherwise financially obligate funds from the public works assistance account before the legislature has

appropriated funds for a specific list of public works projects. The legislature may remove projects from the list recommended by the board. The legislature shall not change the order of the priorities recommended for funding by the board.

(6) Subsections (4) and (5) of this section do not apply to loans made for emergency public works projects under RCW 43.155.065.

Sec. 7. Section 1, chapter 93, Laws of 1988 and RCW 43.155.065 are each amended to read as follows:

The board may make low-interest or interest-free loans to local governments for emergency public works projects. Emergency public works projects shall include the construction, repair, reconstruction, replacement, rehabilitation, or improvement of a public water system that is in violation of health and safety standards and is being operated by a local government on a temporary basis. The loans may be used to help fund all or part of an emergency public works project less any reimbursement from any of the following sources: (1) Federal disaster or emergency funds, including funds from the federal emergency management agency; (2) state disaster or emergency funds; (3) insurance settlements; or (4) litigation. Emergency loans may be made only from those funds specifically appropriated from the public works assistance account for such purpose by the legislature. The amount appropriated from the public works assistance account for emergency loan purposes shall not exceed five percent of the total amount appropriated from this account in any biennium.

Sec. 8. Section 4, chapter 271, Laws of 1986 as amended by section 135, chapter 175, Laws of 1989 and RCW 70.119A.040 are each amended to read as follows:

(1) In addition to or as an alternative to any other penalty provided by law, every person who commits any of the acts or omissions in RCW 70.119A.030 shall be subjected to a penalty in an amount of not less than five hundred dollars. The maximum penalty shall be not more than five thousand dollars per day for every such violation. Every such violation shall be a separate and distinct offense. The amount of fine shall reflect the health significance of the violation and the previous record of compliance on the part of the public water supplier. In case of continuing violation, every day's continuance shall be a separate and distinct violation. Every person who, through an act of commission or omission, procures, aids, or abets in the violation shall be considered to have violated the provisions of this section and shall be subject to the penalty provided in this section.

(2) The penalty provided for in this section shall be imposed by a notice in writing to the person against whom the civil fine is assessed and shall describe the violation. The notice shall be personally served in the manner of service of a summons in a civil action or in a manner that shows proof of receipt. A penalty imposed by this section is due twenty-eight days after receipt of notice unless application for remission or mitigation is made as

provided in subsection (3) of this section or unless application for an adjudicative proceeding is filed as provided in subsection (4) of this section.

(3) Within fourteen days after the notice is received, the person incurring the penalty may apply in writing to the department for the remission or mitigation of such penalty. Upon receipt of the application, the department may remit or mitigate the penalty upon whatever terms the department in its discretion deems proper, giving consideration to the degree of hazard associated with the violation, provided the department deems such remission or mitigation to be in the best interests of carrying out the purposes of this chapter. The department shall not mitigate the fines below the minimum penalty prescribed in subsection (1) of this section. The department shall have authority to ascertain the facts regarding all such applications in such reasonable manner as it may deem proper. When an application for remission or mitigation is made, a penalty incurred under this section is due twenty-eight days after receipt of the notice setting forth the disposition of the application, unless an application for an adjudicative proceeding to contest the disposition is filed as provided in subsection (4) of this section.

(4) Within twenty-eight days after notice is received, the person incurring the penalty may file an application for an adjudicative proceeding and may pursue subsequent review as provided in chapter 34.05 RCW and applicable rules of the department or board of health.

(5) A penalty imposed by a final order after an adjudicative proceeding is due upon service of the final order.

(6) The attorney general may bring an action in the name of the department in the superior court of Thurston county, or of any county in which such violator may do business, to collect a penalty.

(7) All penalties imposed under this section shall be payable to the state treasury and credited to the general fund.

NEW SECTION. Sec. 9. A new section is added to chapter 8.25 RCW to read as follows:

Consistent with standard appraisal practices, the valuation of a public water system as defined in RCW 70.119A.020 shall reflect the cost of system improvements necessary to comply with health and safety rules of the state board of health and applicable regulations developed under chapter 43.20, 43.20A, or 70.116 RCW.

Sec. 10. Section 12, chapter 51, Laws of 1967 ex. sess. as last amended by section 7, chapter 25, Laws of 1984 and RCW 70.05.070 are each amended to read as follows:

The local health officer, acting under the direction of the local board of health or under direction of the administrative officer appointed under RCW 70.05.040, if any, shall:

(1) Enforce the public health statutes of the state, rules and regulations of the state board of health and the secretary of social and health services, and all local health rules, regulations and ordinances within his or her

jurisdiction including imposition of penalties authorized under RCW 70-119A.030 and filing of actions authorized by RCW 43.70.190;

(2) Take such action as is necessary to maintain health and sanitation supervision over the territory within his or her jurisdiction;

(3) Control and prevent the spread of any dangerous, contagious or infectious diseases that may occur within his or her jurisdiction;

(4) Inform the public as to the causes, nature, and prevention of disease and disability and the preservation, promotion and improvement of health within his or her jurisdiction;

(5) Prevent, control or abate nuisances which are detrimental to the public health;

(6) Attend all conferences called by the secretary of social and health services or his or her authorized representative;

(7) Collect such fees as are established by the state board of health or the local board of health for the issuance or renewal of licenses or permits or such other fees as may be authorized by law or by the rules and regulations of the state board of health((-));

(8) Inspect, as necessary, expansion or modification of existing public water systems, and the construction of new public water systems, to assure that the expansion, modification, or construction conforms to system design and plans;

(9) Take such measures as he or she deems necessary in order to promote the public health, to participate in the establishment of health educational or training activities, and to authorize the attendance of employees of the local health department or individuals engaged in community health programs related to or part of the programs of the local health department.

NEW SECTION. Sec. 11. The department shall prepare a report for the legislature no later than December 1, 1990, with regard to the problems of small water systems and proposed solutions. Such a report shall be prepared in consultation with the utilities and transportation commission, the department of community development, department of ecology, public works assistance board, and associations of cities, counties, public and private utilities, water districts, local health directors, and other interested groups. The report shall address, at a minimum, the following topics, with alternative approaches or solutions:

(1) The number and locations of existing public systems that do not meet public health and safety standards;

(2) Costs associated with state enforcement of new federal standards under the 1986 amendments to the Safe Drinking Water Act, including expenses and potential financing mechanisms for the operating costs of receivers of water systems when the system revenue is otherwise inadequate to cover the costs;

(3) Available financing for capital improvements for both publicly owned and privately owned water systems;

(4) Legal and regulatory barriers to improved delivery of safe and reliable drinking water supplies to the state's residents and in particular regulating and enforcement overlap between the department and the utilities and transportation commission;

(5) The effect of failing or inadequate water supplies on the ability of an owner to sell, or a buyer to obtain financing to buy, residential real estate in this state;

(6) Staffing levels for both state and local agencies responsible for enforcing the state's drinking water laws, including mechanisms for funding such staff;

(7) Revisions to requirements relating to certification of operators for public water systems, including the utilization state-wide of a system of satellite operators; and

(8) Such other topics as are significant and relevant.

NEW SECTION. Sec. 12. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

NEW SECTION. Sec. 13. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately.

Passed the Senate March 3, 1990.

Passed the House March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 134

[Substitute Senate Bill No. 6453]

AGRICULTURAL LENDERS—FARMERS HOME ADMINISTRATION LOAN GUARANTY PROGRAM PARTICIPATION

AN ACT Relating to the use of farmers home administration guaranty loan funds; adding a new chapter to Title 31 RCW; prescribing penalties; making an appropriation; and declaring an emergency.

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

NEW SECTION. Sec. 1. The legislature finds and declares that nondepository agricultural lenders can enhance their access to working capital for the purpose of financing agricultural borrowers by using the United States farmers home administration loan guaranty program. The farmers home administration loan guaranty program provides financing to agricultural borrowers needing working capital and longer term financing for the purchase of real estate, agricultural production expenses, debt refinancing,

equipment, and the purchase of other fixed assets. Loans can be made to agricultural borrowers by nondepository lenders and guaranteed by the farmers home administration only if the state provides an ongoing opportunity for examination of such entities to confirm good lending practices and solvency.

It is the intent of the legislature to empower the supervisor of banking to examine nondepository agricultural lenders for the purpose of allowing such lenders to qualify for participation in the farmers home administration loan guaranty program.

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

(1) "Agricultural lender" means a Washington corporation incorporated under Title 23B or 24 RCW and qualified as such under this chapter and the jurisdiction of the federal government agency sponsoring the loan guaranty program.

(2) "Supervisor" means the state supervisor of banking.

(3) "Loan guaranty program" means the farmers home administration loan guaranty program, or any other government program for which the agricultural lender is eligible and which has as its function the provision, facilitation, or financing of agricultural business operations.

NEW SECTION. Sec. 3. (1) The supervisor shall administer this chapter. The supervisor may issue orders and adopt rules that, in the opinion of the supervisor, are necessary to execute, enforce, and effectuate the purposes of this chapter. Rules to enforce the provisions of this chapter shall be adopted under the administrative procedure act, chapter 34.05 RCW.

(2) An application filed with the supervisor under this chapter shall be in such form and contain such information as required by the supervisor by rule and be consistent with the requirements of the loan guaranty program.

(3) After the supervisor is satisfied that the applicant has satisfied all the conditions necessary for approval, the supervisor shall issue a license to the applicant authorizing it to be an agricultural lender under this chapter.

(4) Any change of control of an agricultural lender shall be subject to the approval of the supervisor. Such approval shall be subject to the same criteria as the criteria for approval of the original license. For purposes of this subsection, "change of control" means directly or indirectly, alone or in concert with others, to own, control, or hold the power to vote ten percent or more of the outstanding voting stock of an agricultural lender or the power to elect or control the election of a majority of the board of directors of an agricultural lender.

(5) The supervisor may deny, suspend, or revoke a license if the agricultural lender violates any provision of this chapter or any rules promulgated pursuant to this chapter.

NEW SECTION. Sec. 4. (1) An agricultural lender may participate in a loan guaranty program. If an agricultural lender participates in a loan guaranty program, the agricultural lender shall comply with the requirements of that program.

(2) An agricultural lender may be incorporated under either the Washington business corporation act, Title 23B RCW, or the Washington nonprofit corporation act, Title 24 RCW. In addition to the powers and privileges provided to an agricultural lender by this chapter, an agricultural lender has all the powers and privileges conferred by its incorporating statute that are not inconsistent with or limited by this chapter.

NEW SECTION. Sec. 5. (1) The supervisor is authorized to charge a fee for the estimated direct and indirect costs for examination and supervision by the supervisor of an agricultural lender or a subsidiary of an agricultural lender. Excess examiner time shall be billed at a reasonable rate established by rule.

(2) All such fees shall be deposited in the banking examination fund and administered consistent with the provisions of RCW 43.19.095.

NEW SECTION. Sec. 6. (1) An agricultural lender shall keep books, accounts, and other records in such form and manner as required by the supervisor. These records shall be kept at such place and shall be preserved for such length of time as specified by the supervisor by rule.

(2) Not more than ninety days after the close of each calendar year, or within a period specified by the supervisor, an agricultural lender shall file with the supervisor a report containing the following:

(a) Financial statements, including the balance sheet, the statement of income or loss, the statement of changes in capital accounts, and the statement of changes in financial position; and

(b) Other information that the supervisor may require.

(3) Each agricultural lender shall provide for a loan loss reserve sufficient to cover projected loan losses that are not guaranteed by the United States government or any agency thereof.

NEW SECTION. Sec. 7. (1) The supervisor, the deputy supervisor, or a bank examiner shall visit each agricultural lender at least every twenty-four months for the purpose of assuring that the agricultural lender remains in compliance with and qualified for the loan guaranty program.

(a) The supervisor may accept timely audited financial statements and other timely reports the supervisor determines to be relevant and accurate as part of a full and complete examination of the agricultural lender. The supervisor shall make an independent review of loans guaranteed by the loan guaranty program.

(b) The agricultural lender shall be exempt from examination under this subsection if it terminates its activities under the loan guaranty program and no loans guaranteed by the loan guaranty program remain on the

books. This exemption becomes effective upon notification to the supervisor. The supervisor shall confirm termination of activities under the loan guaranty program with the appropriate federal agency.

(c) All examination reports and all information obtained by the supervisor and the supervisor's staff in conducting examinations of an agricultural lender are confidential to the same extent bank examinations are confidential under RCW 30.04.075.

(d) All examination reports may be shared with other state or federal agencies consistent with chapter 30.04 RCW.

(2) A director, officer, or employee of an agricultural lender or of a subsidiary of an agricultural lender being examined by the supervisor or a person having custody of any of the books, accounts, or records of the agricultural lender or of the subsidiary shall facilitate the examination so far as it is in his or her power to do so.

(3) If in the supervisor's opinion it is necessary in the examination of an agricultural lender or of a subsidiary of an agricultural lender, the supervisor may retain any certified public accountant, attorney, appraiser, or other person to assist the supervisor. The agricultural lender being examined shall pay the fees of a person retained by the supervisor under this subsection.

NEW SECTION. Sec. 8. (1) The supervisor shall adopt rules to enforce the intent and purposes of this chapter. Such rules shall include, but not be limited to, the following:

- (a) Disclosure of conflicts of interest;
- (b) Prohibition of false statements made to the supervisor on any form required by the supervisor or during any examination; or
- (c) Prevention of fraud and undue influence within an agricultural lender.

(2) A violation of any provision of this chapter or any rule of the supervisor adopted under this chapter by an agent, employee, officer, or director of the agricultural lender shall be punishable by a fine, established by the supervisor, not to exceed one hundred dollars for each offense. Each day's continuance of the violation shall be a separate and distinct offense. All fines shall be credited to the banking examination fund.

(3) The supervisor may issue and serve upon an agricultural lender a notice of charges if, in the opinion of the supervisor, the agricultural lender is violating or has violated the law, rule, or any condition imposed in writing by the supervisor or any written agreement made by the supervisor.

(a) The notice shall contain a statement of the facts constituting the alleged violation or practice and shall fix a time and place at which a hearing will be held to determine whether an order to cease and desist should issue against the agricultural lender. The hearing shall be set not earlier than ten days nor later than thirty days after service of the notice unless a later date is set by the supervisor at the request of the agricultural lender.

Unless the agricultural lender appears at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the cease and desist order. In the event of consent or if, upon the record made at the hearing, finds that any violation or practice specified in the notice of charges has been established, the supervisor may issue and serve upon the agricultural lender an order to cease and desist from the violation or practice. The order may require the agricultural lender and its directors, officers, employees, and agents to cease and desist from the violation or practice and may require the agricultural lender to take affirmative action to correct the conditions resulting from the violation or practice.

(b) A cease and desist order shall become effective at the expiration of ten days after the service of the order upon the agricultural lender concerned, except that a cease and desist order issued upon consent shall become effective at the time specified in the order and shall remain effective as provided in the order unless it is stayed, modified, terminated, or set aside by action of the supervisor or a reviewing court.

NEW SECTION. Sec. 9. If, in the opinion of the supervisor, an agricultural lender violates or there is reasonable cause to believe that an agricultural lender is about to violate any provision of this chapter or any rule adopted under this chapter, the supervisor may bring an action in the appropriate court to enjoin the violation or to enforce compliance. Upon a proper showing, a restraining order, preliminary or permanent injunction, shall be granted, and a receiver or a conservator may be appointed for the agricultural lender or the agricultural lender's assets.

NEW SECTION. Sec. 10. All agricultural lenders shall notify their members at the time of membership and annually thereafter that their investment in the agricultural lender, although regulated by the supervisor, is not insured, guaranteed, or protected by any federal or state agency.

NEW SECTION. Sec. 11. If any provision of this act or its application to any person or circumstance is held invalid or, if in the written opinion of the farmers home administration, is contrary to the intent and purposes of the loan guaranty program, the supervisor shall not enforce such provision, but the remainder of the act or the application of the provision to other persons or circumstances shall not be affected.

NEW SECTION. Sec. 12. Sections 1 through 11 of this act shall constitute a new chapter in Title 31 RCW.

NEW SECTION. Sec. 13. The sum of five thousand dollars, or as much thereof as may be necessary, is appropriated from the general fund to the bank examination fund for the biennium ending June 30, 1991, for the regulatory purposes of this act.

NEW SECTION. Sec. 14. 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 February 9, 1990.

Passed the House February 28, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 135

[Substitute House Bill No. 2999]

COMMUNITY COLLEGE OFFICERS AND EMPLOYEES—COMPENSATION

AN ACT Relating to compensation for community college officers and employees; reenacting and amending RCW 28B.50.140; and declaring an emergency.

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

Sec. 1. Section 6, chapter 14, Laws of 1979 as last amended by section 14, chapter 314, Laws of 1987 and by section 1, chapter 407, Laws of 1987 and RCW 28B.50.140 are each reenacted and amended to read as follows:

Each community college board of trustees:

(1) Shall operate all existing community colleges and vocational-technical institutes in its district;

(2) Shall create comprehensive programs of community college education and training and maintain an open-door policy in accordance with the provisions of RCW 28B.50.090(3);

(3) Shall employ for a period to be fixed by the board a college president for each community college(~~(, a director for each vocational-technical institute or school operated by a community college, a district president, if deemed necessary by the board, in the event there is more than one college and/or separated institute or school located in the district,))~~ district, and where applicable community college presidents within the district, and fix their duties and compensation, which may include elements other than salary. Compensation under this subsection shall not affect but may supplement retirement, health care, and other benefits that are otherwise applicable to the presidents as state employees. The board shall also employ for a period to be fixed by the board members of the faculty and such other administrative officers and other employees as may be necessary or appropriate and fix their salaries and duties. Compensation and salary increases under this subsection shall not exceed the amount or percentage established for those purposes in the state appropriations act by the legislature as allocated to the board of trustees by the state board for community college education. The state board for community college education shall adopt rules defining the permissible elements of compensation under this subsection;

(4) May establish, under the approval and direction of the college board, new facilities as community needs and interests demand. However,

the authority of community college boards of trustees to purchase or lease major off-campus facilities shall be subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(5);

(5) May establish or lease, operate, equip and maintain dormitories, food service facilities, bookstores and other self-supporting facilities connected with the operation of the community college;

(6) May, with the approval of the college board, borrow money and issue and sell revenue bonds or other evidences of indebtedness for the construction, reconstruction, erection, equipping with permanent fixtures, demolition and major alteration of buildings or other capital assets, and the acquisition of sites, rights-of-way, easements, improvements or appurtenances, for dormitories, food service facilities, and other self-supporting facilities connected with the operation of the community college in accordance with the provisions of RCW 28B.10.300 through 28B.10.330 where applicable;

(7) May establish fees and charges for the facilities authorized hereunder, including reasonable rules and regulations for the government thereof, not inconsistent with the rules and regulations of the college board; each board of trustees operating a community college may enter into agreements, subject to rules and regulations of the college board, with owners of facilities to be used for housing regarding the management, operation, and government of such facilities, and any board entering into such an agreement may:

(a) Make rules and regulations for the government, management and operation of such housing facilities deemed necessary or advisable; and

(b) Employ necessary employees to govern, manage and operate the same;

(8) May receive such gifts, grants, conveyances, devises and bequests of real or personal property from private sources, as may be made from time to time, in trust or otherwise, whenever the terms and conditions thereof will aid in carrying out the community college programs as specified by law and the regulations of the state college board; sell, lease or exchange, invest or expend the same or the proceeds, rents, profits and income thereof according to the terms and conditions thereof; and adopt regulations to govern the receipt and expenditure of the proceeds, rents, profits and income thereof;

(9) May establish and maintain night schools whenever in the discretion of the board of trustees it is deemed advisable, and authorize classrooms and other facilities to be used for summer or night schools, or for public meetings and for any other uses consistent with the use of such classrooms or facilities for community college purposes;

(10) May make rules and regulations for pedestrian and vehicular traffic on property owned, operated, or maintained by the community college district;

(11) Shall prescribe, with the assistance of the faculty, the course of study in the various departments of the community college or colleges under its control, and publish such catalogues and bulletins as may become necessary;

(12) May grant to every student, upon graduation or completion of a course of study, a suitable diploma, nonbaccalaureate degree or certificate;

(13) Shall enforce the rules and regulations prescribed by the state board for community college education for the government of community colleges, students and teachers, and promulgate such rules and regulations and perform all other acts not inconsistent with law or rules and regulations of the state board for community college education as the board of trustees may in its discretion deem necessary or appropriate to the administration of community college districts: PROVIDED, That such rules and regulations shall include, but not be limited to, rules and regulations relating to housing, scholarships, conduct at the various community college facilities, and discipline: PROVIDED, FURTHER, That the board of trustees may suspend or expel from community colleges students who refuse to obey any of the duly promulgated rules and regulations;

(14) May, by written order filed in its office, delegate to the president or district president any of the powers and duties vested in or imposed upon it by this chapter. Such delegated powers and duties may be exercised in the name of the district board;

(15) May perform such other activities consistent with this chapter and not in conflict with the directives of the college board;

(16) Notwithstanding any other provision of law, may offer educational services on a contractual basis other than the tuition and fee basis set forth in chapter 28B.15 RCW for a special fee to private or governmental entities, consistent with rules and regulations adopted by the state board for community college education: PROVIDED, That the whole of such special fee shall go to the college district and be not less than the full instructional costs of such services including any salary increases authorized by the legislature for community college employees during the term of the agreement: PROVIDED FURTHER, That enrollments generated hereunder shall not be counted toward the official enrollment level of the college district for state funding purposes;

(17) Notwithstanding any other provision of law, may offer educational services on a contractual basis, charging tuition and fees as set forth in chapter 28B.15 RCW, counting such enrollments for state funding purposes, and may additionally charge a special supplemental fee when necessary to cover the full instructional costs of such services: PROVIDED, That such contracts shall be subject to review by the state board for community college education and to such rules as the state board may adopt for that purpose in order to assure that the sum of the supplemental fee and the normal

state funding shall not exceed the projected total cost of offering the educational service: PROVIDED FURTHER, That enrollments generated by courses offered on the basis of contracts requiring payment of a share of the normal costs of the course will be discounted to the percentage provided by the college;

(18) Shall be authorized to pay dues to any association of trustees that may be formed by the various boards of trustees; such association may expend any or all of such funds to submit biennially, or more often if necessary, to the governor and to the legislature, the recommendations of the association regarding changes which would affect the efficiency of such association;

(19) Subject to the approval of the higher education coordinating board pursuant to RCW 28B.80.340(4), may participate in higher education centers and consortia that involve any four-year public or independent college or university; and

(20) Shall perform any other duties and responsibilities imposed by law or rule and regulation of the state board.

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

Passed the House February 13, 1990.

Passed the Senate March 1, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 136

[Senate Bill No. 6559]

WINTER RECREATIONAL FACILITIES—REIMBURSEMENT OF COSTS

AN ACT Relating to reimbursement for costs of plan review and construction approval of winter recreational facilities; and amending RCW 70.88.070, 43.51.290, and 70.88.080.

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

Sec. 1. Section 7, chapter 327, Laws of 1959 as last amended by section 1, chapter 74, Laws of 1975 1st ex. sess. and RCW 70.88.070 are each amended to read as follows:

The expenses incurred in connection with making inspections under this chapter shall be paid by the owner or operator of such recreational devices either by reimbursing the commission for the costs incurred or by paying directly such individuals or firms that may be engaged by the commission to accomplish the inspection service. Payment shall be made only upon notification by the commission of the amount due. The commission shall maintain accurate and complete records of the costs incurred for each

inspection and plan review for construction approval and shall assess the respective owners or operators of said recreational devices only for the actual costs incurred by the commission for such safety inspections and plan review for construction approval. The costs as assessed by the commission shall be a lien on the equipment of the owner or operator of the recreational devices so inspected. Such moneys collected by the commission hereunder shall be paid into the parks and parkways account of the general fund.

Sec. 2. Section 1, chapter 209, Laws of 1975 1st ex. sess. as amended by section 1, chapter 11, Laws of 1982 and RCW 43.51.290 are each amended to read as follows:

In addition to its other powers, duties, and functions the state parks and recreation commission may:

(1) Plan, construct, and maintain suitable facilities for winter recreational activities on lands administered or acquired by the commission or as authorized on lands administered by other public agencies or private landowners by agreement;

(2) Provide and issue upon payment of the proper fee, with the assistance of such authorized agents as may be necessary for the convenience of the public, a permit to park in designated winter recreational area parking spaces;

(3) Administer the snow removal operations for all designated winter recreational area parking spaces; and

(4) Compile, publish, and distribute maps indicating such parking spaces, adjacent trails, and areas and facilities suitable for winter recreational activities.

The commission may contract with any public or private agency for the actual conduct of such duties, but shall remain responsible for the proper administration thereof. The commission is not liable for unintentional injuries to users of lands administered for winter recreation purposes under this section or under RCW 46.10.210, whether the lands are administered by the commission, by other public agencies, or by private landowners through agreement with the commission. Nothing in this section prevents the liability of the commission for injuries sustained by a user by reason of a known dangerous artificial latent condition for which warning signs have not been conspicuously posted. A road covered with snow and groomed for the purposes of winter recreation consistent with this chapter and chapter 46.10 RCW shall not be presumed to be a known dangerous artificial latent condition for the purposes of this chapter.

Sec. 3. Section 8, chapter 327, Laws of 1959 and RCW 70.88.080 are each amended to read as follows:

Inspections, rules, and orders of the ((department)) state parks and recreation commission resulting from the exercise of the provisions of this chapter, as well as under RCW 70.88.020, shall not in any manner be deemed to impose liability upon the state for any injury or damage resulting

from the operation of the facilities regulated by this chapter, and all actions of the ((department)) state parks and recreation commission and its personnel shall be deemed to be an exercise of the police power of the state.

Passed the Senate March 8, 1990.

Passed the House March 2, 1990.

Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

CHAPTER 137

[Senate Bill No. 6172]

ENVIRONMENTAL COORDINATION PROCEDURES

AN ACT Relating to environmental coordination procedures; and amending RCW 90.62.040.

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

Sec. 1. Section 4, chapter 185, Laws of 1973 1st ex. sess. as amended by section 3, chapter 54, Laws of 1977 and RCW 90.62.040 are each amended to read as follows:

(1) Any person proposing a project may submit a master application to the department requesting the issuance of all permits necessary prior to the construction and operation of the project in the state of Washington. The master application shall be on a form furnished by the department and shall contain precise information as to the location of the project, and shall describe the nature of the project including any discharges of wastes proposed therefrom and any uses of, or interferences with, natural resources contemplated.

(2) Upon receipt of a properly completed master application, the department shall immediately notify in writing each state agency having a possible interest in the master application arising from requirements pertaining to a permit program under its jurisdiction. The notification from the department shall be accompanied by a copy of the master application together with the date by which the agency shall respond to the notice. Each notified agency shall respond in writing to the department within the specified date, not exceeding fifteen days from receipt, as determined by the department, advising (a)(i) whether the agency does or does not have an interest in the master application, and (a)(ii) if the response to (a)(i) of this subsection is affirmative, the permit program or programs under the agency's jurisdiction to which the project described in the master application is pertinent, and whether, in relation to the master application, a public hearing as provided in RCW 90.62.050 and 90.62.060 would or would not be of value taking into consideration the overall public interest. Each notified state agency which (b)(i) responds within the specified date that it does not

have an interest in the master application or (b)(ii) does not respond as required above within the specified date, shall not subsequently require a permit of the applicant for the project described in the master application; provided the bar to requiring a permit subsequently shall not be applicable if the master application provided the notified agency contained false, misleading, or deceptive information, or other information, or lack thereof, which would reasonably lead an agency to misjudge its interest in a master application.

(3) After receiving the information regarding permits and applications provided by the department under subsection (4) of this section, the person may continue the process to apply for all or some of the permits required for the project or choose not to use the process to apply for any permits.

(4) The department shall send application forms relating to permit programs identified in affirmative responses under subsection (2) of this section to the applicant within five working days of the date specified by the department pursuant to subsection (2) of this section with a direction to complete and return them to the department within a reasonable time as specified by the department.

~~((4))~~ (5) When such applications, properly completed, have been returned to the department, each of the applications shall be transmitted to the appropriate state agency for the performance of its responsibilities of decision making in accordance with the procedures of this chapter. No such completed applications shall be accepted by the department for transmittal unless they are accompanied by (a) the certification of local government provided for in RCW 90.62.100 as now or hereafter amended, or (b) a statement of the local government indicating that such certification would require rezoning, the granting of a variance or issuance of a conditional use permit and the local government has chosen to utilize the procedures provided by this chapter to process the request for the rezoning or variance or the application for the conditional use permit as provided by RCW 90.62.100(2) as now or hereafter amended.

~~((5))~~ (6) For the purpose of establishing priority dates upon water right permits and certificates issued pursuant to rulings on applications under chapters 90.03 and 90.44 RCW and processed under this chapter, the priority date shall be the date of submitting the master application to the department or the county office as provided in RCW 90.62.120(2).

Passed the Senate March 3, 1990.

Passed the House February 27, 1990.

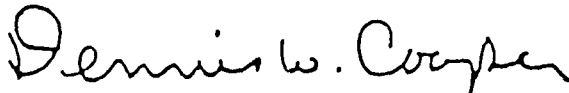
Approved by the Governor March 21, 1990.

Filed in Office of Secretary of State March 21, 1990.

AUTHENTICATION

I, Dennis W. Cooper, Code Reviser of the State of Washington, do hereby certify that, with the exception of such corrections as I have made in accordance with the powers vested in me by the provisions of RCW 44.20.060, the laws published in this volume are a true and correct reproduction of the copies of the enrolled laws of the 1990 regular session, chapters 1 through 137 (51st Legislature), as certified and transmitted to the Statute Law Committee by the Secretary of State pursuant to RCW 44.20.020.

IN TESTIMONY WHEREOF, I have hereunto set my hand at Olympia, Washington, this 29th day of March, 1990.

A handwritten signature in cursive script that reads "Dennis W. Cooper". The signature is written in black ink and is positioned above the printed name and title.

DENNIS W. COOPER
Code Reviser

